

**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2011**

TUESDAY, MARCH 23, 2010

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.
Present: Senators Harkin, Reed, Specter, and Cochran.

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. HILDA L. SOLIS, SECRETARY

OPENING STATEMENT OF SENATOR TOM HARKIN

Senator HARKIN. The Subcommittee on Labor, Health, Human Services, Education, and Related Agencies will come to order.

Welcome back to the subcommittee, Madam Secretary. I thank you for adjusting your time to come a little early.

We are boarding the bus at 10:15 a.m. to go to the White House, and I don't want to miss this historic occasion, to be there for signing of the healthcare reform bill. I might point out I have my Franklin Roosevelt tie on today, as a reminder of what we are about to witness, and the momentous occasion that's going to take place this morning with President Obama signing the healthcare bill into law. So, thank you for coming up early.

Well, Madam Secretary, just a few comments, here. First of all, thanks to President Obama and to the team he has around him, including you, and thanks to actions taken by Congress in the recovery bill, it seems that the economy is stabilizing. But, still far too many people do not have a job. The national unemployment rate officially stands at 9.7 percent; that's about 14.9 million Americans out of work. But we know there's another 8 to 9 million people out there that want to work full time, can work full time, but the jobs just aren't available.

Now, we know the situation could have been worse. The Congressional Budget Office recently estimated that roughly 2 million workers had jobs last quarter because of the Recovery Act. Two million. Today, more than 200 construction workers are helping build a new Job Corps Center at the Ottumwa Campus of the In-

dian Hills Community College in my State of Iowa. Madam Secretary, you were there for me last year when we broke ground for this center. These construction jobs were made possible by \$23 million in Recovery Act funds.

And I just noticed that Dr. Lindenmayer, who is the president of Indian Hills Community College, is here today with some students from the Denison Job Corps Center. And I want to welcome them here today. Again, this is why we're doing this, to focus on the job force, our Nation's workforce of the future.

FISCAL YEAR 2011 BUDGET

Madam Secretary, your fiscal year 2011 budget builds on the foundations set by the Recovery Act and the 2010 appropriations bill. You have proposed key investments in workforce innovation, green job training, and I compliment you for that. Your budget would also continue the Disability Employment Initiative that we started last year in the 2010 appropriations bill. Again, more than 20 million disabled Americans are not participating in our workforce. That's a missed opportunity. We must do better. And I thank you for continuing this program in your budget.

The downturn in the economy also means that workers' rights are more vulnerable to employer abuse or misunderstanding. Your budget proposes important investments that will help address worker misclassification, workplace safety, health activities, and, of course, international labor rights. I'm particularly pleased to see a proposed increase for Bureau of International Labor Affairs (ILAB), which leads our fight against the worst forms of child labor around the world. Thank you for that.

Lastly, this budget does not simply propose to spend more money, it proposes to ensure the money is spent wisely. Your budget requests \$40 million for 5 rigorous evaluations of DOL activities. These evaluations will help us learn how to best structure our DOL programs so they can operate more efficiently and effectively.

PROPOSED FREEZE ON DISCRETIONARY SPENDING

Madam Secretary, as you know the President has proposed a freeze on all nondefense discretionary spending for this year, so the choices we have as appropriators this year in writing our bill will not be easy ones. So, your testimony and your continued working with us will help keep us informed as we try to shoehorn in all that we want to do within the President's proposal and to not have any increases.

So, now I turn it over to Secretary Hilda Solis, sworn in as the 25th Secretary of Labor on February 24, 2009. I was privileged to be there to watch this very historic occasion. Prior to her confirmation, she served as a representative of the 32nd Congressional District in California. Secretary Solis is a noted leader on the issue of clean energy jobs, as well as training for veterans, displaced workers, at-risk youth, and improving the overall lives of disadvantaged and everyday working families. A graduate of California State Polytechnic University, got her master of public administration from the University of Southern California. As a former Federal employee, she worked in the Carter White House Office of Hispanic

Affairs and as a management analyst with Office of Management and Budget in the in the Civil Rights Division.

So, we were all very delighted when the President asked you to be his Secretary of Labor not only because of your knowledge of how we work up here, but because of your background as well. You brought a wealth of experience to this, and I think the last year has shown that. Thank you very much for your great leadership, and the floor is yours.

SUMMARY STATEMENT OF HON. HILDA L. SOLIS

Secretary SOLIS. Thank you very much, Mr. Chairman.

And, to the Vice Chairman, who isn't with us, and to the other subcommittee members, I want to thank you for inviting me here today to discuss our fiscal year 2011 budget and our request.

I'd like to review selected highlights of my testimony with you.

RECOVERY ACT RESOURCES

First, I want to begin by saying that it's not possible to discuss next year's budget without acknowledging the immediate need to put people back to work. And you said it very pointedly. I'm proud of the work that we have done with the Recovery Act resources, including the assistance that was provided through the unemployment program, the Unemployment Insurance (UI) and COBRA benefits programs; the creation of nearly, 318,000 summer jobs for our youth; and the training opportunities that we created, particularly in health careers; and for jobs in the new green economy.

UNEMPLOYMENT RATE

While these efforts are helping, they are clearly not sufficient and not enough. At the 9.7 percent unemployment rate, which remains persistently and unacceptably high, I know that you have been working hard with your colleagues to reach consensus on measures that will allow us to continue to help all Americans until the labor market fully recovers.

There have been, clearly, some setbacks. But, as my testimony indicates, I hope that we can commit \$1.2 billion to ensure a robust summer jobs program this year. And I want to thank, in particular, Senator Murray and yourself, Chairman Harkin, for your work on this particular issue, and pledge to work with you to see that we get this done. I would also like to see a jumpstart in our employment through a \$500 million investment on the job training programs and add funding to further support our oversubscribed training programs.

WORKFORCE INVESTMENT PROGRAMS

We then need to sustain these investments through programs that give workers the tools they need to succeed in the 21st century economy. And I want to highlight some of the measures in our budget request that will accomplish this goal.

For the first time in more than a decade, the budget proposes a significant increase in funding for the Workforce Investment (WIA), programs. As you know, my team has been pleased to work closely with you and your staff on the process of WIA reauthorization. Fol-

lowing our approach in that process, the additional resources we're requesting for WIA are inextricably linked to reform through the establishment of two new WIA innovation funds.

GREEN JOBS INNOVATION FUND

The budget also requests an increase of \$45 million for Green Jobs Innovation Fund. And I can tell you from our experience with the Recovery Act, these competitions were very, very demanding. We had an enormous number of applicants that applied for this funding. So, the need is very great. We know that there are some wonderful partnerships that are out there, but our resources were limited and we couldn't fund all of them. Additional resources would allow us to meet this demand, connecting trainees with jobs by requiring that grantees work with employers to ensure that participants gain the necessary skills and industry-recognized credentials that will help them move into better and higher-paying jobs.

DISABILITY EMPLOYMENT INITIATIVE

Mr. Chairman, based on the approach that you championed this year, two Department of Labor (DOL) agencies—Employment and Training Administration (ETA) and the Office of Disability Employment (ODEP)—will continue to receive \$12 million each to continue their joint disability employment initiative to increase the capacity of the one-stop system to provide accessible services to individuals with disabilities.

WORKER PROTECTION PROGRAMS

I know you understand it can be too easy to exploit workers when jobs are scarce. And we need to remain vigilant in protecting the rights and safety of our workers. In fiscal year 2011, our budget continues that vigilance by hiring additional enforcement personnel. We build upon the resources you provided us with last year, to return our worker protection programs to fiscal year 2001 levels or greater, after years—many years of decline. To do so, the request includes \$1.7 billion, equivalent to 10,957 full-time employees, for worker protection. This funding level is \$67 million, or 4 percent, more than last year's level and the agency-by-agency details are in my prepared testimony.

To reinvigorate our regulatory agenda—the request for worker protection includes increases to supplement the development of regulations in areas such as pensions, worker health, and safety.

EMPLOYEE MISCLASSIFICATION

The budget also contains an important interagency effort to address employee misclassification. Workers wrongly classified as independent contractors are denied critical benefits and protections to which they may be entitled to as employees, including overtime, health coverage, workers' compensation, family medical leave, and unemployment insurance. In addition, misclassification results in billions of dollars of loss to the Government through unpaid taxes. Our budget includes \$25 million to hire additional enforcement personnel targeted at misclassification and to fund competitive grants to help States to address this growing problem.

Restoring our economy requires ensuring the world economy is sound and balanced. I firmly believe that our responsibility to promote acceptable conditions of work abroad is very, very much linked to our worker protection agenda here at home. It is with this goal in mind that we're requesting an additional \$22 million for ILAB to increase the monitoring of labor provisions of trade agreements, including provisions related to child labor, and to support programs to improve labor rights for workers with our trading-partner countries.

PREPARED STATEMENT

Before I conclude, I want to say a few words about our commitment to ensuring accountability for the resources that you entrust us with. This is why my testimony links investments to performance outcomes and why we have a new commitment to program evaluation. Members of the subcommittee, we all know that too many Americans are ready and willing to work, but can't find a job. The budget before you will help spur new and better job opportunities while fostering safe workplaces and respect and dignity for workers' rights. This is what my goal of "Good Jobs for Everyone" is. And I look forward to working with you, Mr. Chairman, to see that vision is fulfilled.

I'm happy to respond to any questions that you may have.
[The statement follows:]

PREPARED STATEMENT OF HILDA L. SOLIS

Chairman Harkin, Vice Chairman Cochran, and members of the subcommittee, thank you for the invitation to testify today. I appreciate the opportunity to discuss the fiscal year 2011 budget request for the Department of Labor (DOL).

The total request for DOL in fiscal year 2011 is \$116.5 billion and 17,800 full-time equivalent employees (FTE), of which \$17.1 billion is before the subcommittee. Of that amount, \$14 billion is requested for discretionary budget authority. Our budget request will build on the \$4.8 billion in discretionary as well as the mandatory resources included for the Department in the American Recovery and Reinvestment Act (ARRA).

PUTTING PEOPLE BACK TO WORK

Workers and their families are hurting in these tough economic times. We know that job opportunities and economic security are of utmost importance to Americans. During my travels throughout the country, I have met many people who expected to be in their peak earning years, and yet were struggling to find employment and maintain retirement savings. At DOL, we are putting people back to work and assisting unemployed workers who need our help. Through ARRA investments funded by the Congress, we have:

- Funded more than \$49 billion in benefits to unemployed workers;
- Created nearly 318,000 summer youth job opportunities;
- Invested \$500 million in training and research for emerging "green jobs" and another \$220 million to help workers pursue careers in health care and other high-growth industry sectors;
- Created more than 18,000 new community service employment opportunities for seniors;
- Provided job-related services to more than 3.2 million unemployment insurance claimants;
- Provided direct assistance to more than 190,000 unemployed workers and their families seeking affordable health coverage and the COBRA subsidy.

While these efforts are helping Americans during these difficult times, they are clearly not enough. The unemployment rate remains persistently and unacceptably high. This administration wants to ensure that investments in job creation will continue until the labor market fully recovers from the economic downturn. The president has proposed a robust package to spur job creation, including new investments

in small business, infrastructure, and clean energy. In addressing the need for additional jobs legislation, the administration supports additional job-creating investments in key DOL initiatives:

First, last summer the ARRA created more than 300,000 summer jobs for at-risk youth in 2009, addressing an alarmingly high youth unemployment rate. Based on that experience, we believe that local areas can expand the program to create up to 350,000 jobs this summer, providing work experience to help young people build their futures and income their families can use in a weak economy. We can accomplish this with an additional \$1.2 billion investment in summer and youth employment. In keeping with our approach to WIA reauthorization, this amount should include \$150 million for competitive grants to support innovative programs and build knowledge of what strategies, including paid work experience, produce the best educational and employment outcomes for disconnected youth.

Second, training programs that bring workers into contact with employers form key partnerships that will result in people getting jobs. We support an additional \$500 million to expand on-the-job training, refresh the skills of the long-term unemployed, and link them to real employment opportunities as the economy rebounds.

Third, through grant programs we will be prioritizing training in emerging industries where we know there are jobs, such as clean energy, an area where we see a lot of potential for additional training efforts. The administration supports an additional \$300 million to continue two ARRA programs—Pathways Out of Poverty Grants (\$225 million) and Energy Training Partnerships (\$75 million). For both of these programs, we received many more quality applications than we were able to fund. As a result, additional resources would allow us to quickly fund these high-quality programs.

We also applaud the action that has been taken to extend unemployment benefits and health insurance. These programs ensure a continued safety net for individuals who cannot find jobs, and the benefits help stimulate the economy by putting money back in workers' pockets who then spend it in their local communities. These programs are vital, and we look forward to working with Congress to extend the duration of these programs.

We must work together to respond to the plea from millions of Americans for job opportunities and assistance. That means that we need to create new and better jobs for the 21st century economy. And because it is too easy to exploit workers when jobs are scarce, we need to be vigilant in protecting the rights and safety of workers. At DOL, my strategic vision is to provide good jobs for everyone. Here are some of the ways that we define a good job:

- A good job can support a family by increasing incomes, narrowing the wage gap and allowing workplace flexibility.
- A good job is safe and secure and gives people a voice in the workplace.
- A good job is sustainable and innovative, for example a green job.
- A good job will help rebuild a strong middle class.
- A good job provides access to a secure retirement and to adequate and affordable health coverage.

The resources requested in our fiscal year 2011 budget will help to make the vision of good jobs for everyone a reality. They will build on and leverage the job creation efforts begun with ARRA and continued with the fiscal year 2010 appropriation. I am committed to doing my best to see that the new jobs created with the economic recovery are good jobs that are open to the diverse group that represents the workers of the future.

PREPARING FOR JOBS OF THE FUTURE

DOL is looking to prepare workers with the tools they need to succeed in the 21st century economy, and for innovative ways to promote economic recovery. The fiscal year 2011 budget request for the Department's Employment and Training Administration (ETA) is \$10.9 billion in discretionary funds and 1,080 FTE, not including the 148 FTE associated with the proposed legislation for foreign labor certification application fees. Through innovative program strategies, the budget request for ETA will allow DOL to increase the skills of the American workforce, while addressing all segments of the population.

Innovation Funds

Reflecting the urgent need to prepare workers for 21st century jobs, for the first time in more than a decade, the fiscal year 2011 budget proposes a significant increase in funding for the Workforce Investment Act (WIA) grant programs for adults, dislocated workers, and youth. The budget requests \$3.4 billion for these programs, an increase of \$209 million above the fiscal year 2010 level. However, the additional resources are inextricably linked to reform.

In keeping with the administration's WIA reauthorization plan, a percentage of the funds appropriated for adults, dislocated workers and youth will be reserved for the budget's proposed new Partnership for Workforce Innovation, which encompasses \$321 million of funding in the Departments of Labor and Education. At DOL, two new innovation funds would provide competitive grants to State and local entities that can demonstrate new and promising ways of preparing individuals for jobs of the future. There are funds for adults and youth. For adults, the \$108 million Workforce Innovation Fund would be funded through a 5 percent reserve from the WIA Adult and Dislocated Worker Programs. Innovation funding will be used, in part, to support and test "learn and earn" strategies like on-the-job training and apprenticeships. For youth, the \$154 million Youth Innovation Fund will be funded by a 15 percent reserve of the funds appropriated for Youth; the funds will support summer and year-round employment opportunities and "work experience plus" programs for out-of-school youth. We are confident that the partnership for workforce innovation will create strong incentives for change that will improve the effectiveness of the WIA programs, and provide incentives for States and localities to break down program silos and improve service delivery.

Green Jobs

The demand for green job training opportunities is enormous—and DOL has been unable to keep pace with the record number of applications for grants. We believe that this unprecedented level of interest represents the need for resources that focus on green jobs training, which complements job creation efforts. We also believe this demonstrates the need to assist people who are already working, but who may be underemployed, to gain skills—and portable credentials—that will help them move into better, higher-paying jobs in emerging sectors.

The budget requests \$85 million for the Green Jobs Innovation Fund, an increase of \$45 million (89 percent) from the fiscal year 2010 appropriation. The request will provide training opportunities for some 14,110 workers. These funds will support DOL's efforts to achieve its high-priority performance goal in the employment and training arena, which is aimed at increasing opportunities for America's workers to acquire the skills and knowledge to succeed in a knowledge-based economy (and includes training more than 120,000 Americans for green jobs by June 2012). The budget will also complement the competitive grant awards made through the \$500 million appropriation included for high-growth and emerging industry sectors under ARRA, and the \$40 million provided in the fiscal year 2010 appropriation.

YouthBuild

The fiscal year 2011 budget includes \$120 million, an increase of \$17.5 million (17 percent) for YouthBuild to provide an estimated 230 competitive grants to local organizations for the education and training of approximately 7,450 disadvantaged youth age 16–24. Under these grants, youth will participate in classroom training and learn construction skills by helping to build affordable housing. In fiscal year 2011, DOL will continue the "green" transition of YouthBuild by encouraging connections with other Federal agencies involved in creating green jobs—such as the Departments of Energy and Housing and Urban Development—in order to leverage resources and new "green" opportunities for YouthBuild participants.

Transitional Jobs

The fiscal year 2011 budget proposes that \$40 million for second-year funding to demonstrate and evaluate transitional job program models, which combine short-term subsidized or supported employment with case management services to help individuals with significant employment barriers obtain the skills needed to secure unsubsidized jobs. The initiative, which is a critical part of our jobs agenda, will target noncustodial parents to strengthen their workforce skills and experience, and help the children who rely on them for support. DOL is carrying out this demonstration collaboratively with other Federal agencies, such as the Departments of Health and Human Services and Justice. In partnership with these agencies, we are working to develop and implement a rigorous evaluation strategy for this demonstration.

Strengthening Unemployment Insurance Integrity and Promoting Re-employment

The severity of the recession has placed great stress on the Unemployment Insurance (UI) system, which has paid out unprecedented amounts of unemployment compensation. This administration is committed to protecting the financial integrity of the UI system, and helping unemployed workers return to work as swiftly as possible. In addition to providing the funding that States rely on to administer this important safety net program, our approach includes:

- A package of legislative changes that would prevent, identify, and collect UI overpayments and delinquent employer taxes. We estimate that these legisla-

tive proposals would reduce overpayments by \$2.632 billion and employer tax evasion by \$282 million over 10 years (net of the income tax offset).

—A request of \$55 million (an increase of \$5 million over the fiscal year 2010 level) in discretionary funding to support Reemployment and Eligibility Assessments, which include in-person interviews at One-Stop Career Centers with UI beneficiaries to discuss their need for re-employment services and their continuing eligibility for benefits. In fiscal year 2011, this investment, combined with the \$10 million request included in State administration, will help 710,000 UI beneficiaries find jobs faster. It is expected to save \$2.3 billion over a 10-year period.

We urge the Congress to act on these important proposals to strengthen the financial integrity of the UI system and help unemployed workers return to work.

Senior Community Service Employment Program (SCSEP)

The fiscal year 2011 budget proposes \$600.5 million for the SCSEP, which will support some 61,900 slots for low-income seniors in part-time, minimum wage community service jobs. The request continues funding at the base amount of the fiscal year 2010 appropriation. As you know, in fiscal year 2010 the Congress provided a special multi-year appropriation of \$225 million to help low-income seniors facing special economic challenges, asking that we allocate those funds within 45 days of enactment. In January 2010, DOL moved quickly to award these funds to offer immediate employment opportunities.

Job Corps

The budget includes \$1.7 billion to operate a nationwide network of 124 Job Corps centers in fiscal year 2011. Job Corps provides training to address the individual needs of at-risk youth and equip them with the skills they need to enter the world of work. The fiscal year 2011 budget sets forth an ambitious agenda to reform and improve the Job Corps program's performance. We have begun this agenda in fiscal year 2010, which includes:

- Fully integrating Job Corps with DOL's other employment and training programs, with the return of the program to the ETA.
- A rigorous and comprehensive review of Job Corps center operations and management to identify areas most in need of reform.
- Remediation of program performance shortfalls at the lowest performing centers.
- Analysis of contracting practices and procedures to identify potential savings and strategies to improve cost effectiveness.

We are optimistic that our reform agenda will identify ways to produce better outcomes at a lower cost. To the extent that our efforts produce long-run cost avoidance, rather than near-term savings, the budget includes appropriations language that would allow the transfer of up to 15 percent of the \$105 million appropriation for construction to meet center operational needs. This authority was first provided by Congress in ARRA. Job Corps received \$250 million from ARRA, which it is using to fund shovel-ready construction projects that stimulate job growth in center communities. In addition, ARRA funds are promoting environmental stewardship in Job Corps by supporting development of green-collar job training, technology enhancements, and fleet efficiency.

Veterans' Employment and Training Service (VETS)

We know returning veterans can contribute greatly to our economy. For DOL's VETS, the fiscal year 2011 budget request is \$262 million and 234 FTE. The fiscal year 2011 budget includes \$41 million for the Homeless Veterans Reintegration Program, an increase of \$5 million (14 percent) more than fiscal year 2010. The request will allow the program to provide employment and training assistance to more than 25,000 homeless veterans, and increase our reach to homeless women veterans. In addition, the budget requests \$8 million for the Transition Assistance Program (TAP) for spouses and family members (including those with limited English proficiency), an increase of \$1 million (14 percent) from fiscal year 2010. TAP Workshops will enroll roughly an additional 15,000 participants worldwide in fiscal year 2011, and play a key role in reducing jobless spells and helping service members transition successfully to civilian employment.

State Paid Leave

Workforce and workplace changes have made it increasingly difficult for working families to meet their work and family responsibilities. The vast majority of American workers have family care-giving responsibilities outside of work and no full-time caregiver at home. Nearly half of private-sector workers do not have paid sick leave to care for themselves, and even fewer have leave available to care for another

family member when they are ill. Millions of workers risk losing pay—and even their jobs—when they are sick or their children are sick. No worker should be placed in that position. Similarly, most workers do not have paid family leave—for example, to care for a newborn or newly adopted or fostered child.

State programs that provide for paid leave offer a solution for working families who cannot afford to take unpaid leave but need to take time off work to care for a newborn, bond with a new child or care for themselves and their families. The fiscal year 2011 budget requests \$50 million for a State Paid Leave Fund to provide grants to help States establish paid leave programs.

PROTECTING WORKERS' RIGHTS AND SAFETY

In the jobs of the future as well as in jobs of the present, workers should be safe and their rights should be protected. To achieve our goal of rebuilding the middle class, we need to level the playing field and restore fair play for all working people. The fiscal year 2011 budget continues our commitment to protect the rights and safety of workers by hiring additional enforcement personnel and strengthening our regulatory efforts. The request includes \$1.7 billion in discretionary funds and 10,957 FTE for our worker protection activities. This funding level is \$67 million (4 percent) and 177 FTE above the fiscal year 2010 appropriation. The budget returns the worker protection programs to the fiscal year 2001 staffing levels or greater, and builds on the progress begun in fiscal year 2010 to restore capacity in our worker protection programs.

Employee Misclassification Initiative

Employers who misclassify their employees as independent contractors often avoid paying the minimum wage and overtime. They evade payroll taxes, and often do not pay for workers' compensation or other employment benefits. As a result, employees are denied the protections and benefits of this Nation's most important employment laws, and their employers gain an unfair advantage in the market place. Employees are particularly vulnerable to misclassification in these difficult economic times. The fiscal year 2011 budget requests \$25 million for a multi-agency initiative to strengthen and coordinate Federal and State efforts to enforce statutory prohibitions, and identify and deter employee misclassification as independent contractors.

For the Wage and Hour Division (WHD), the fiscal year 2011 budget requests an additional \$12 million and 90 new investigators to expand its efforts to ensure that workers are employed in compliance with the laws we enforce. The funds will support targeted investigations that focus on industries where misclassification is most likely to lead to violations of the law, and training for investigators in the detection of workers who have been misclassified.

The Misclassification Initiative also will support new, targeted ETA efforts to recoup unpaid payroll taxes due to misclassification and promote the innovative work of States on this problem. This initiative includes State audits of problem industries supported by Federal audits, and \$10.9 million for a pilot program to reward the States that are the most successful (or most improved) at detecting and prosecuting employers that fail to pay their fair share of taxes due to misclassification and other illegal tax schemes that deny the Federal and State UI Trust Funds hundreds of millions of dollars annually.

In addition, the Misclassification Initiative includes:

- For the Office of the Solicitor, \$1.6 million and 10 FTE to support enforcement strategies, with a focus on coordination with the States on litigation involving the largest multi-State employers that routinely abuse independent contractor status.
- For the Occupational Safety and Health Administration (OSHA), \$150,000 to train inspectors on worker misclassification issues.
- Legislative changes that will require employers to properly classify their workers, provide penalties when they do not, and restore protections for employees who have been classified improperly.

With these efforts, we intend to reduce the prevalence of misclassification and secure the protections and benefits of the laws we enforce. This effort strikes at the core of DOL's mission—and the hard working people of this country deserve no less.

Wage and Hour Division

I take the failure to pay workers the wages that they have earned very seriously, and I am committed to enforcing all employment laws—particularly those related to payment of the minimum wage and overtime. Workers deserve this money, and it will bring new resources to low-income households where most of it will be spent and help reinvigorate local communities. As I noted earlier, we have already increased wage hour enforcement staffing. At 1,672 FTE, the staffing level for the

WHD requested in fiscal year 2011 is 29 percent higher than the fiscal year 2009 level. As new investigators grow into their jobs, they will be an even stronger force for securing compliance with basic labor standards protections. The fiscal year 2011 budget request of \$244.2 million for WHD will support targeted investigations, meaningful compliance assistance, and—in support of DOL's high-priority performance goals—reduce repeat violations of minimum wage, overtime, and workplace safety laws.

Office of Federal Contract Compliance Programs

I am also committed to vigorously enforcing the laws that combat discrimination, for our goal is to protect workers who—ultimately—are America's most important asset. The fiscal year 2011 request for the Office of Federal Contract Compliance Programs (OFCCP) is \$113.4 million and 788 FTE, an increase of \$8 million from the fiscal year 2010 level. The 2010 appropriation has allowed OFCCP to return to 2001 staffing levels, and the 2011 request will make it possible to maintain that level.

The fiscal year 2011 budget will allow OFCCP to broaden its enforcement efforts and focus on identifying and resolving both individual and systemic discrimination. OFCCP will focus its attention on a broad range of issues that arise in individual cases, including harassment, retaliation, termination, and failure to promote. Since Federal contractors are obligated to self-audit and correct identified problems, OFCCP will step up monitoring of this element of contractor compliance. As part of OFCCP's enforcement of Executive Order 11246, Equal Employment Opportunity, a renewed emphasis on conducting construction reviews is planned.

Office of Workers' Compensation Programs

The fiscal year 2011 discretionary budget request for administration of the Office of Workers' Compensation Programs (OWCP) totals \$127.3 million and 921 FTE to support the Federal Employees' Compensation Act (FECA) (\$103.5 million), the longshore and harbor workers' compensation program (\$17.2 million) and \$6.6 million for the Division of Information Technology Management and Services (DITMS). DITMS provides information technology general services support for the programs that were previously within the Employment Standards Administration (ESA) and was previously funded in ESA's program direction and support activity. DITMS was transferred to OWCP with the understanding that it would provide the same level of IT support. The request includes an additional \$3.2 million and 9 FTE to address the burgeoning workload under the Defense Base Act arising from claims associated with injuries to war-zone contract workers in Afghanistan and Iraq.

A high-priority performance goal for fiscal year 2011 will be a new, jointly sponsored OWCP and OSHA initiative entitled "Protecting Our Workforce and Ensuring Reemployment" (POWER). The new program is designed to bring a greater focus on the Federal Government as a model employer of workers injured on the job and returning to the workplace, or for employing workers with disabilities.

The OWCP budget also includes mandatory funding totaling \$53.8 million and 295 FTE to administer part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), and \$72.8 million and 265 FTE for Part E of the Act. EEOICPA provides compensation and medical benefits to employees or survivors of employees of the Department of Energy and certain of its contractors and subcontractors, who suffer from a radiation-related cancer, beryllium-related disease, chronic silicosis or other covered illness as a result of work at covered Department of Energy contractor facilities.

Lastly, OWCP's fiscal year 2011 budget includes \$38.3 million in mandatory funding and 198 FTE for its administration of parts B and C of the Black Lung Benefits Act, and \$58.4 million and 127 FTE in FECA Fair Share administrative funding.

Office of Labor-Management Standards

The fiscal year 2011 budget request for the Office of Labor-Management Standards (OLMS) totals \$45.2 million and 269 FTE. This is an increase of \$4 million from the fiscal year 2010 level. OLMS administers the Labor-Management Reporting and Disclosure Act (LMRDA), which establishes safeguards for union democracy and union financial integrity and requires public disclosure reporting by unions, union officers, employees of unions, labor relations consultants, employers, and surety companies. OLMS also administers DOL's responsibilities under Federal transit law by ensuring that fair and equitable arrangements protecting mass transit employees are in place before the release of Federal transit grant funds. The fiscal year 2011 budget includes an additional \$2.5 million to allow OLMS to modernize an aging, mission-critical information technology system. This project will increase transparency to the public, reduce reporting burden and administrative costs, and improve program efficiency.

Employee Benefits Security Administration

DOL's Employee Benefits Security Administration (EBSA) protects the integrity of pensions, health plans, and other employee benefits for more than 150 million people. The fiscal year 2011 budget request for EBSA is \$162 million and 941 FTE, an increase of \$7.1 million (5 percent) and 31 FTE compared to the fiscal year 2010 level. The additional resources will support a significantly greater demand for regulatory guidance, research, outreach, education, and assistance. The budget will improve EBSA's ability to ensure America's workers, retirees and their families have access to a secure retirement and affordable health insurance. I am very proud of the work this agency has done under ARRA, implementing a new appeal program related to an individual's appeal of the denial of his or her COBRA premium assistance, and responding to more than 190,000 inquiries and complaints from unemployed workers and their families seeking affordable health coverage and the COBRA subsidy; hosting more than 2.5 million visitors to our dedicated COBRA Web site; and conducting 826 outreach events related to the new program, including compliance assistance Web casts and seminars and on-site visits with workers facing layoff at their place of employment.

OSHA

I am proud that OSHA is restoring its capacity to strongly enforce statutory protections, provide technical support to small businesses, promulgate safety and health standards, strengthen the accuracy of safety and health statistics, and ensure that workers know about the hazards they face and their rights under the law. The fiscal year 2011 budget request for OSHA is \$573.1 million and 2,360 FTE, an increase of \$14.5 million and 25 FTE more than the fiscal year 2010 level. The budget redirects 35 FTE from compliance assistance to enforcement and supports DOL's high-priority performance goal to reduce workplace injuries by targeting establishments and industries with the highest injury, illness, and fatality rates—with the goal of reducing by 2 percent per year the number of fatalities associated with the four leading causes of workplace death in OSHA's jurisdiction: falls; electrocution; caught in or between; and struck by. The request also includes an additional \$4 million to expand OSHA's regulatory program, \$1 million for consultation programs focused on small businesses, and \$1.5 million for State plans. These additional resources will support a vigorous enforcement presence in the Nation's workplaces and ensure that hard-to-reach workers know about their rights and the hazards they face.

Mine Safety and Health Administration (MSHA)

MSHA is celebrating 40 years of legislation aimed at improving working conditions for America's workers, and last year, MSHA recorded the safest year in mining in U.S. history. The fiscal year 2011 budget requests \$360.8 million and 2,430 FTE and supports MSHA's comprehensive strategy to curb debilitating and potential fatal diseases caused by coal mine dust. The budget includes an increase of \$2.3 million and 21 FTE for the metal and nonmetal mine safety and health budget activity to bolster enforcement and conferencing. The budget will ensure a 100 percent completion rate for all mandatory safety and health inspections; support MSHA's enhanced enforcement initiatives, which target patterns of violation, flagrant violators, and scofflaws; and allow MSHA to promulgate new standards related to reducing health hazards associated with exposure to coal mine dust and crystalline silica. The request also allows MSHA to continue its work to enhance mine rescue and emergency operations and will support DOL's high-priority performance goal—which targets the most common causes of fatal accidents and is aimed at reducing workplace fatalities at mining sites by 5 percent per year based upon a rolling 5-year average.

Office of the Solicitor

The Office of the Solicitor (SOL) provides the legal services that support DOL, including DOL's enforcement programs. The fiscal year 2011 budget includes \$130.4 million and 658 FTE for SOL, an increase of \$5.2 million and 22 FTE from fiscal year 2010. This amount includes \$122.5 million in discretionary resources and \$7.9 million in mandatory funding. The budget includes an increase of \$2 million to support an additional 12 FTE to handle increased Mine Safety and Health enforcement litigation resulting from the substantial increase in the number of cases at the Federal Mine Safety and Health Review Commission. The fiscal year 2011 budget will support SOL's enforcement litigation, issuance of timely legal opinions, legal support for rulemaking, and increased efficiency through its acquisition of legal technology.

Pension Benefit Guaranty Corporation

For administrative expenses of the Pension Benefit Guaranty Corporation (PBGC), the fiscal year 2011 budget requests \$466.3 million and 942 FTE. The

budget includes an increase of \$14.7 million for the PBGC's benefit determination process to cover the projected long-term costs of absorbing participants of several very large pension plans that terminated in late fiscal year 2009. In addition, \$200,000 and 1 FTE are requested to increase the capacity of the Office of Inspector General to support its audit, investigation, and training activities.

ENSURING ACCOUNTABILITY AND TRANSPARENCY

Spending tax dollars wisely helps DOL achieve our mission on behalf of America's workers, and builds trust among our stakeholders. We are committed to ensuring a sense of responsibility, accountability, and transparency at DOL. Our fiscal year 2011 budget supports those goals.

Built around my vision of good jobs for everyone, DOL is currently updating its strategic plan, which will be published by September 30, 2010 and cover fiscal years 2010–2016—a span during which the Department will mark its 100th anniversary of service to America's workers.

Over the next several months, we will be reaching out to a broad range of stakeholders—including Congress—to solicit their input and perspective on a new strategic goal framework that will govern all aspects of work in DOL.

Our strategic planning efforts dovetail nicely with President Obama's commitment to improve the performance of the Federal Government through three complementary performance management strategies. They are:

- Use performance information to lead, learn, and improve outcomes;
- Communicate performance coherently and concisely for better results and transparency; and
- Strengthen problem-solving networks.

As part of this process, DOL's fiscal year 2011 budget articulates five ambitious—but realistic—high-priority performance goals that we will strive to achieve in the next 18 to 24 months. These goals—which I've touched on above—offer an opportunity for DOL to achieve remarkable and lasting benefits for the American people. Our high-priority performance goals will focus the agencies on the most critical needs affecting the safety, health, and economic security of workers. We are working with our colleagues in the Office of Management and Budget to establish an action plan for implementation of the Department's high-priority performance goals—including quarterly milestones that we will use to gauge the progress and success of our implementation strategy.

A Strengthened Commitment to Program Evaluation

In the 2011 budget, the administration encouraged Departments to volunteer for a new program evaluation initiative designed to strengthen rigorous, objective assessments of existing Federal programs to help improve results and better inform funding decisions. DOL is proud to be one of a limited number of agencies selected to pilot this new approach in the fiscal year 2011 budget. The budget includes \$40.3 million to fund 5 rigorous evaluations and demonstrations of workplace safety enforcement and workforce development services. Most are demonstrations that would provide program services, coupled with rigorous evaluations of the strategies. While the evaluations are still in the design phase, we expect a substantial portion of this funding will go to States, workforce agencies, or for participant services. The five evaluations, which will be shaped and guided by DOL, working closely with the Office of Management and Budget and Council of Economic Advisors, will cover the following:

- WIA performance measures;
- Effects of job counseling;
- Using linked administrative data to evaluate workforce programs;
- Incentives for dislocated workers; and
- Effects of OSHA inspection strategies.

In addition, the budget includes \$10 million in the departmental management account and \$11.6 million in the training and employment services account to continue to pursue a robust, DOL-wide evaluation agenda. To effectively manage the new evaluation resources, DOL is establishing a Chief Evaluation Office in fiscal year 2010 to directly manage the Department-wide evaluation resources, and work with the other components of the Department to ensure a high level of rigor and quality in the evaluations they support.

Workforce Data Quality Initiative

The fiscal year 2011 budget requests \$13.8 million for second-year funding for the DOL's Workforce Data Quality Initiative, which we are carrying out in partnership with the Department of Education. The initiative provides competitive grants to develop longitudinal data systems that have the capability to link workforce and edu-

cation data collected as individuals progress through the education system and into the workforce. These data systems can provide valuable information to consumers, practitioners, policymakers, and researchers about the performance of education and workforce development programs. In fiscal year 2010, up to 12 States will receive grants to implement longitudinal databases over a 3-year period. The fiscal year 2011 request will support participation of up to 12 additional States in the initiative.

OTHER PROGRAMS

Bureau of Labor Statistics

Through its 21 economic programs, the Bureau of Labor Statistics (BLS) produces some of the Nation's most sensitive and important economic data. The fiscal year 2011 budget proposes \$645.4 million and 2,465 FTE for BLS, an increase of \$34 million (6 percent) from the fiscal year 2010 level. The budget proposes several initiatives to modernize and improve the accuracy of BLS survey data. For example:

- An increase of \$27.3 million is requested to improve the data quality of the Consumer Price Index (CPI) and Consumer Expenditure (CE) Survey, including work to support the Census Bureau in its development of a supplemental poverty measure.
- An increase of \$4.9 million is included to expand the Occupational Employment Statistics (OES) program to annual data reporting from a subset of establishments, making possible year-to-year comparisons.

In addition, the fiscal year 2011 budget proposes new, cost-effective data collection strategies that would not diminish the quality of the data that BLS publishes. For example:

- A restructuring of the way in which the current employment statistics produces State and metropolitan area data estimates would save \$5 million annually.
- An alternative, model-based methodology will allow BLS to produce locality pay data at a lower cost. The new approach will eliminate the Locality Pay Surveys, ensure no reduction in the data quality, and save \$10 million annually.

Finally, the fiscal year 2011 budget proposes to eliminate the international labor comparisons program. The savings from this elimination and the two-cost effective data collection strategies mentioned above will be used to partially finance the OES, CPI, and CE enhancements.

We look forward to working with Congress to implement the fiscal year 2011 budget strategies to improve and modernize the critically important economic data produced by BLS.

Office of Disability Employment Policy (ODEP)

Even though the majority of workers with disabilities are prepared, willing, and able to work, they remain a largely untapped labor pool. We know that people with disabilities are out of the labor force at a much higher rate than their counterparts without disabilities, and we are launching innovative partnerships to increase their employment opportunities. For example, along with the Office of Personnel Management (OPM), in April DOL is hosting a national hiring event for people with disabilities with participation by numerous Federal agencies and human resources professionals. Also, along with the Departments of Defense and Veterans Affairs, we have relaunched an improved national resource directory Web site for America's wounded warriors, their caregivers, other members of the veterans community, and employers. By visiting www.nationalresourcedirectory.gov, customers can now access thousands of services and resources at the national, State, and local levels to support recovery, rehabilitation, and community reintegration for veterans.

The fiscal year 2011 budget requests \$39 million and 52 FTE for ODEP to combat the problem by developing policy and policy strategies that, when implemented by ODEP's Federal, State, and local partners that include public and private-sector employers, will:

- Increase physical and programmatic access for individuals with disabilities in WIA partner programs and at One-Stop Career Centers, through a partnership between ETA and the Department of Education.
- Increase the employment of people with disabilities within the Federal Government, in partnership with OPM.
- Make workplaces more inclusive and welcoming to both transitioning youth and adults with disabilities.
- Expand access to employment supports—like technology and transportation. These services are crucial to the success of all workers in the job market, especially those with disabilities. ODEP will utilize ongoing partnerships with the Departments of Commerce, Transportation, and Education; the General Serv-

ices Administration; the National Science Foundation; businesses; technology designers, developers and manufacturers; and the disability community to ensure that emerging workplace information and communication technology is universally available.

—Spur new strategies for integrated employment opportunities for workers with disabilities within minority, women, and veteran-owned businesses. For example, ODEP’s “Add Us In” initiative will fund a competitive grant to encourage small businesses, particularly minority-owned businesses, to increase the number of people with disabilities hired by such employers.

The request includes \$12 million for ODEP to continue its partnership with ETA on the Disability Employment Initiative, which strives to increase the capacity and accountability of the One-Stop Career system to provide accessible programs and services to individuals with disabilities. A companion request of \$12 million is contained within the ETA budget. Our goal is to ensure that good jobs for everyone includes workers with disabilities.

Bureau of International Labor Affairs (ILAB)

One of my goals as Secretary of Labor is to help American workers build the foundation for a sustained recovery of the global economy, while contributing to a more balanced pattern of global trade in the future and respect for workers’ rights around the world. The fiscal year 2011 budget requests \$115 million for the ILAB, an increase of \$22 million and 10 FTE from the fiscal year 2010 level. The additional resources will allow ILAB to significantly expand support for innovative, successful programs that address root causes of violations of workers’ rights in developing country trading partners. Of the increased resources, \$20 million will be added to the \$6.5 million in funding that has been provided by Congress since fiscal year 2008 for such workers rights initiatives. Given the challenges of the global economic crisis, we believe that these programs are more necessary than ever to prevent and address incidents of labor exploitation abroad.

The additional \$2 million increase in resources will be used to increase oversight, monitoring and reporting on labor rights in countries that have free trade agreements and trade preference programs with the United States and on reporting and analysis of progress countries are making to eliminate the worst forms of child labor. We anticipate adding 10 new FTE for these purposes.

The fiscal year 2011 budget will support DOL’s high-priority performance goal to make measurable improvements in worker rights and livelihoods and progress against the worst forms of child labor in at least eight countries by the end of fiscal year 2011. The budget will also continue the Bureau’s longstanding commitment to building international relationships that improve global working conditions and strengthen labor standards around the world.

Women’s Bureau

This year, the Women’s Bureau will mark 90 years of work formulating standards and policies that promote the welfare of wage-earning women and advance their opportunity for fair and profitable employment. The Bureau’s efforts to provide women in the workplace with the information and tools needed to obtain good jobs and economic security for themselves and their families is invaluable in this time of economic recovery.

The Bureau’s fiscal year 2011 budget includes \$12.3 million and 58 FTE, which is \$700,000 above the fiscal year 2010 enacted level. This budget will allow the Women’s Bureau to continue and increase its role of conducting research, outreach, and evaluations of programs and policies affecting working women. The budget will also allow the Bureau to work with the Bureau of Labor Statistics to improve data collection on work-family responsibilities, and support my vision of good jobs for everyone.

CONCLUSION

Too many Americans are ready, willing, and able to work—but cannot find a job. The fiscal year 2011 budget for DOL will help spur new and better job opportunities, foster safe workplaces that respect workers’ rights, and ensure American workers are ready for 21st century jobs. I am committed to achieving the goal of Good Jobs for Everyone, and I look forward to working with the members of this subcommittee to make that vision a reality.

Mr. Chairman, this is an overview of the programs proposed at DOL for fiscal year 2011.

I am happy to respond to any questions that you may have.

Senator HARKIN. Thank you very much, Madam Secretary.

I meant to say, before you started, and I will say it now, that the record will remain open, prior to your statement, for an opening statement by Senator Cochran or any other Senators who wish to submit such a statement.

WORKER PROTECTION

Madam Secretary, thank you again for your great leadership. And let me just go over a couple things.

The worker protection measures that you have talked about are heartwarming. It's about time that we recognize what has happened in the past. The Wage and Hour Division, which enforces minimum wage and overtime pay protections, lost 30 percent of its staff between fiscal year 2000 and fiscal year 2008. That loss of inspectors led to a drop of 36 percent in the number of inspections conducted by the Wage and Hour Division.

In the last 8 years, 2000 to 2008, the Occupational Safety and Health Administration (OSHA) issued only 3 significant safety and health regulations, two of which were issued as a result of court orders. The previous administration killed the ergonomics regulation, which we debated here for a long time, and then a plan was presented to lead to reduced ergonomic injuries. Well, that was fine. The problem is the plan was never implemented. So, your budget, the 2011 budget request, will provide OSHA the resources it needs to address these regulatory issues that have been so neglected in the past.

Also, your emphasis on green jobs—let's face it, that is the future. And young people have to be trained for those green jobs.

DISABILITY EMPLOYMENT INITIATIVE

One thing I wanted to cover with you is the Disability Employment Initiative that we started last year, the \$24 million. And you—you're continuing that this year. I appreciate that. ETA and ODEP submitted a report last month on how they will implement this initiative. And I want to compliment your staff on developing a thoughtful plan that I believe will lead to improved services and outcomes for people with disabilities.

Just as a background—in February 2010, the labor force participation rate of individuals with disabilities was 21.9 percent. Think about that. People with disabilities who want to work, who can work, had a—well that's 78 percent, I guess, unemployment rate. That's just unconscionable. Right now there are navigators—disability program navigators for more than 40 States.

In the March 10 report by your inspector general which was titled "Information on DOL's Efforts to Access for Persons with Disabilities to the One-Stop Career System," a couple of points really stand out. When One-Stop Centers connected individuals with disabilities with jobs, employers were just as likely to keep them as a nondisabled worker. However, individuals with disabilities were less likely to be connected with jobs in the first place. So, what this tells me is, we've got to do a better job of making these connections. Once they were connected with employers, the data shows that they stayed on the job and were kept on the job just as much as nondisabled people.

DISABILITY PROGRAM NAVIGATORS

Now, the other thing is that the report suggests that the navigators, the disability program navigators, are really part of the answer. One-Stop Centers that had access to disability program navigators did a better job, according to this study, of connecting individuals with disabilities with jobs than those without navigators. So, again, that argues to make sure that we get more navigators out there.

Lastly, the report noted that DOL does not have quantifiable goals or measures that assess DOL's progress in ensuring comprehensive access in One-Stops for individuals with disabilities. My staff tells me that DOL now is considering some options on this issue, so I encourage you to—hopefully, to get those done. And, just consider the Inspector General's report in asking your staff to again focus on these One-Stops with the navigators. How do we get more people with disabilities in, to connect them, and use the navigators a little more than what we were doing in the past to get people with disabilities jobs? So, I ask you to, look at that. I don't need a response on that.

Secretary SOLIS. Yes, Mr. Chairman, I know that with the amount of money that you have provided us with, for both the ODEP and with ETA, we are going to focus in on this initiative. And we do realize that it is something that should be more comprehensive in nature. And so, we will be testing this and working in certain regional areas to make sure that we're doing the right thing, that we have the right tools available so we can make this happen, and then, hopefully, come back and expand the program.

So, I agree with you, we should be doing more. And the success is really going to mean whether the quality of service that the navigators provide is made available to these clients, and, hopefully, that will result in job placement.

I do want to tell you about an initiative that we're planning with OPM, with Director Berry. We have a big event planned with him in April for people with disabilities, to get them in Federal employment. And it's going to be carried out through our Assistant Secretary, Kathy Martinez, who I hope you've had an opportunity to meet with. A very dynamic individual. If you haven't met her, I hope we can arrange for that. But, our goal there is to make sure that the Federal Government lead by example, and that we do as much as we can to begin to employ individuals with disabilities even in our own agencies.

Senator HARKIN. Very good. I appreciate that. Look forward to continuing to work with you. And I look forward to meeting Ms. Martinez and talking with her about this.

JOB CORPS

Let me just shift to Job Corps. Again, I thank you for coming out to Iowa—it was a beautiful day. And I have a great picture of us throwing shovels of dirt in the air at the Job Corps Center. Because of the Recovery Act, we have somewhere between 200 and 250 workers there, building these new buildings.

Now, there's one thing I did want to cover with you. Your budget suggests that you're expecting the Center to be occupied in mid-

program year 2011. Well, that says to me around December. My staff has been checking with the people in Ottumwa and the construction people, and they say that the Center will be ready to serve students many months earlier, perhaps around May of next year. So, again, I'm wondering about that 6-month gap, and I'd ask you to look at that and see if we can't give some assurances that, as soon as that new Center's completed, assuming that it's done by May, that we can get students in there right away, rather than leaving it set until December. Can you inform me about that?

Secretary SOLIS. Yes. Mr. Chairman, I know that this is of great importance to you, and was happy to be out there with you, with that groundbreaking ceremony that I attended.

I wanted to just mention that we have had some changes in our program. We finally have a new director in the Job Corps program, who I hope that you'll also get a chance to meet. Her name is Edna Primrose, and she is also a former employee of the Job Corps program. This will help us by having leadership there that can help us with the changes and reforms we need to help expedite a lot of these projects. And yours is one, of course, of particular concern to us.

I will work with you and your staff in any way that I can to see how we can try to expedite this as much as possible. I know that the project is currently about 43 percent complete. And I, like you, would like to see that we are fully operational by the year 2012, if not sooner, and that we have available at least 300 slots for students, there.

So, I want to work with you, and obviously with Jane Oates, our Assistant Secretary, who you know, is also very much on top of—she's not—I don't think she's here with us—

Senator HARKIN. She's not here.

Secretary SOLIS [continuing]. Today. But she, believe me, has been just unstoppable—

Senator HARKIN. Right. Right.

Secretary SOLIS [continuing]. In helping us get these programs moving. And Job Corps is a very, very important program. That's one of the programs that I oversee that I have had the pleasure of visiting throughout the country. That's one of the programs that I personally make an effort to go visit. So, it is, I think, one of the premier programs. It's been around for so many years, and really doesn't get enough credit by the public because they do some very incredible things.

DENISON JOB CORPS

And I want to welcome the students and the participants in your area that are here with us today.

Senator HARKIN. Right. I mentioned Kevin Fineran is also here, he's the guy that runs the Denison Job Corps Center; and Judi Giersdorf, from MDC, who runs these Job Corps Centers overseas. So, welcome here, and also to the students that are here.

Excuse me just a minute.

I was supposed to meet with you later, but I have to rush out of here. I have to go to the White House for the signing of the healthcare bill. So, I apologize for not being able to meet with you later. Now, back to the witness.

Madam Secretary, I just want to say that, on this issue, assuming that we can get this up and ready to go by next May, if we need to make some adjustments here to ensure that we have the money available, I want to know that. I don't want to see the building sitting empty for 6 months or more if we're ready to go. So, if we need to make some adjustments. Please advise me, yes?

Secretary SOLIS. I will be pleased to follow up with you Senator—

Senator HARKIN. Okay.

Secretary SOLIS [continuing]. Mr. Chairman.

Senator HARKIN. I appreciate that very, very much.

ILAB

Oh, just one last thing before I turn it over to Senator Cochran: ILAB. You mentioned this is a very high priority for me. It's something that I've been looking after for a long, long time, going back to the Clinton administration. And again, your increase is more than welcome, because we didn't have those requests in the past, and we always had to add money here. But, I think, it's just one of the good things that our Nation does, is to forcefully go out and work with International Labor Organization and the International Program for the Elimination of Child Labor (IPEC).

Believe me, I've been in a lot of these countries, I've looked at this—what they are doing, and I can't think of anything that gives a better face for America and what we're about in the world than trying to ensure that children are protected, that they aren't abused; that they aren't put in these unsafe work conditions. Everyplace I've been, the people of those countries, and their—to some extent, their governments—sometime we have a little problems with governments—but, believe me, it's just one of the really great things that we do. And so, I'm just glad that you're still focusing on that.

I know there's always a tussle between what you might call “workers' rights” and—for the general workforce—and perhaps IPEC, in terms of focusing on child labor. I understand that. I guess I would lean more toward looking at child labor, because they have no one to stick up for them. No one. And sometimes to the extent that adult workers may have certain organizations, certain way—certain other things that they can go to, but these kids don't. So, I tend to say, “Let's look at that first,” but you can't forget about the other stuff, but I tend to lean more toward making sure that we put a focus on our anti-child-labor activities.

Secretary SOLIS. Thank you, Mr. Chairman. I know that you have been one of our champions on this issue, in helping to protect children from the worst forms of child labor. And thank you for helping to champion some of the efforts, so that we can provide assistance and support through microloan programs to help make sure that families don't have to send their children into the workforce under, in some, despicable conditions. I know that this is something you care very deeply about. And we do not want to minimize or take away from our efforts in enforcement of child labor laws that are being broken or that we feel are egregious. So, we want to do everything we can to highlight both of those issue areas.

And I am very delighted with the new Assistant Secretary we have there, Sandra Polaski, who is really helping to set a name for ILAB, and returning it, I think, to where it should have been some 10 years ago. She is also very deeply involved in working with other countries to help foster and expand programs that you helped to initiate. The Cambodia experience is the one that I refer to, where we get a certain sector of the garment industry, all the players there, to understand that we should all be abiding by certain standards. And once that happened, then markets open up, because there is a level of trust that helps both partners. And I think it's something that we were—we stepped away from in the last few years, and now, with our ability to do this because of additional funding, we're going to be able to expand that and, hopefully, share with other parts of the world what we can do.

I know that Sandra Polaski has been visiting in Central America, and trying to see how we can gain more of our foot in the door in countries like El Salvador and Nicaragua and even going back to Jordan. So, there's some very exciting things happening. And I'd love to be able to sit down and talk to you more about it.

G20 LABOR MINISTER'S MEETING

And, as you know, we are also sponsoring an upcoming G20 Labor Minister's Meeting that'll be held here in Washington for the first time. There's a great deal of interest to see other countries sharing with us, and we sharing with them our practices, what we've learned, what works, but also, more importantly, preparing our President and other dignitaries from across the G20 countries to put forward a platform that will look at worker protection, safety, and job creation. So, there's a host of good things that are coming out of ILAB, even as small as it is. I'm very proud of the work that they're doing.

Senator HARKIN. Well, I'm proud of their work, too. And thank you for your leadership on ILAB.

Secretary SOLIS. Thank you, Mr. Chairman.

Senator HARKIN. Senator Cochran.

Senator COCHRAN. Mr. Chairman, thank you.

Welcome, Madam Secretary. We appreciate your service in this important undertaking.

HURRICANE KATRINA

When the gulf coast of Mississippi was devastated by Hurricane Katrina, the Job Corps Center there was destroyed. And it's been 2 years plus since that event, and we still don't have a new facility in place. But—there had been a temporary facility planned, but a lot of delays have caused it to lag, and we had heard it's now scheduled for opening in April. We're pleased with that. There is a permanent dormitory in the design phase, we're told, but it'll be 2 more years before that's finished.

I would just bring this to your attention, in hopes that somebody can get involved and help expedite the repairs, the opening of a temporary facility, and, finally, the construction of the buildings that were destroyed by the hurricane. Do you have any information you could share with us about that?

Secretary SOLIS. Yes. Thank you, Senator Cochran. I know that this is of a great deal of concern for many people, especially because of the area. Hurricane Katrina was so devastating that we're still trying to build up other facilities there, as well, that the Federal Government is targeting. But, this is something that—I know is very important. We do have some temporary facilities there available. We believe that, by June 20 of this year, we'll be able to include another, larger number of students that we can service. Right now what we're doing is bringing in, every 2 weeks, about 20 additional students. So, by the time we hit June, we'll have about 168. They will be in that temporary facility, but we are working quickly to see that we can—as fast as possible, of course with your help, we'll work with you to see if we can get the necessary tools available to make this happen a lot sooner.

I know that our goal is to get at least 300 students there. And I do want to inform you that we just hired a new director for Job Corps—Mrs. Primrose—who is a former student of our program—not student, but someone who actually worked in the program and understands the needs and how—and the attention that the Job Corps program really deserves.

So, I feel very confident that we're going to be able to work with you and with our Assistant Secretary for ETA, Jane Oates, to make this possible. And I look forward to working with you. I, too, am very anxious to see this program in its more permanent facility.

Senator COCHRAN. Well, thank you very much. I'm encouraged by what you're saying. I'm glad to know that it has your personal attention. We appreciate your leadership in moving the construction forward.

OFFICE OF LABOR MANAGEMENT STANDARDS (OLMS)

One other thing that has been brought to my attention, in preparation for the hearing, and that is that the enforcement of labor standards is in the hands of the OLMS. And there's some question about whether or not funds have been requested in an amount that will permit this office to carry out its responsibilities. I understand that financial disclosure forms are filed by unions, with this office. And is there any effort to cut down on the oversight, or any of the enforcement activities, of OLMS, as reflected in these low levels of funding requests?

Secretary SOLIS. Senator Cochran, I'm glad you asked me that question. I know the last time that I was here before the subcommittee, I stressed that we would do everything in our power to make sure that we level the playing field, that we work to be more accountable and transparent with union members, and also making sure that we could disclose information. And I'm actually happy to say that, with our commitment in the fiscal year 2011 budget, we're actually increasing the amount of money—\$3.8 million—for OLMS. Much of that will go into technology so that we can make it easier for reporting to be disclosed on forms that will be accessible through electronic means. And that's something that hasn't been done as extensively as we would like. So, we'll actually be able to increase, from 3 to 12, the number of public forms that will be electronically submitted. So, there will be more disclosure.

What we're trying to also do is really focus in on those egregious cases that come about. I want to report that criminal investigations are up for 2009. In 2008, it was 393; 2009, it was 404. Convictions, 103 for 2008; for 2009, 120. So, I can tell you that we are working very hard to make sure that we investigate those places and—necessary reporting requirements have to be adhered to, and we're trying to make it easier for in OLMS to make sure that we get the right information, that we don't overburden the system with unnecessary information, but that it is clear, transparent, and available for union members to see, as well.

PREPARED STATEMENT

Senator COCHRAN. Thank you very much. And, we may have some other questions that we may submit for the record, Mr. Chairman.

Senator HARKIN. Absolutely.

Senator COCHRAN. Thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR THAD COCHRAN

Mr. Chairman, thank you for calling this hearing to discuss the fiscal year 2011 budget for the Department of Labor.

I want to welcome Secretary Solis to her second appearance before this subcommittee and look forward to her testimony.

Madam Secretary, I want to commend you for your continued support of the Youthbuild Program. With funding from your department, the Corporation for National and Community Service and private foundations, amazing work has been done in the Gulf Coast region. Young people from the Youthbuild Americorps Gulf Coast Program have rebuilt more than 150 homes damaged by Hurricane Katrina. This program has given out-of-school, out-of-work youth the opportunity to obtain their general education diploma, gain vocational training, and get paid while learning. We look forward to working with you to continue this important program.

Once again, I thank you Mr. Chairman for calling this important hearing.

Secretary SOLIS. Thank you, Senator.

Senator COCHRAN. Thank you, Madam Secretary.

Senator HARKIN. Senator Specter.

STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Mr. Chairman.

Madam Secretary, thank you for taking on this important job. With all of the excitement in the House of Representatives in the last few days, do you ever miss it?

Secretary SOLIS. I feel even more connected today.

Senator SPECTER. Well, you left your key position in the House; and with all of the excitement and activity, I thought you might have some thought about that line, especially a couple of days after the big event.

DECREASE IN FUNDING

Madam Secretary, I note that there has been a decrease in funding for the DOL, some \$300 million from the 2010 level. And with the enormous responsibilities you have for occupational safety, health, and mine safety, and Job Corps, seems to be hard for you to stretch the dollars.

VETERANS EMPLOYMENT AND TRAINING SERVICE (VETS)

There are a couple of specific items I would like your comment about. And one relates to the VETS. The funding there, as I see the briefing notes, will allow for employment and training assistance to some 25,000 homeless veterans. And that seems to me to be a relatively small number of the veterans who are returning from very difficult duty in Iraq, Afghanistan, and other places. And how many—if you know, or provide it later—of the veterans who could qualify for that kind of employment and training service are there, beyond the 25,000?

Secretary SOLIS. Senator Specter, we're looking at the issue of employment placement through VETS, something that I think has been put aside in the past few years.

We have a very dynamic Assistant Secretary there. Ray Jefferson, who you may know, is a West Point graduate, also served in, I believe, Afghanistan, and brings to the Department a real enthusiasm, as well as strategic direction of where we need to go with helping our veterans that are coming home. This is a very serious problem and concern for all of us. I know that what we have done is try to increase the budget so we not only look at employment opportunities, but that we engage with private partners, such as the Chamber of Commerce, for creating these partnerships so that we can easily place some of our returning veterans in business and job opportunities throughout the country.

This is something that I believe has to happen now, because there's a high rate of unemployment amongst our returning young veterans, in particular—the rate is very, very high. I realize that our budget is somewhat limited, but we're testing some new theories, so to speak. One of them is the TAP program, which will help those veterans that are coming home be able to reintegrate and understand what services are immediately available. We're working in partnership with the Department of Defense on this, but it's something that I don't think has really been fully developed. And so, we're taking a shot at it, because I think it's something that's very important to help provide even further assistance so that veterans and their family members, their spouses, also have the ability to draw down information and services that they're eligible for.

You wouldn't believe how many people I've come across, as a former member in my district, visiting some of these locations where veterans are returning, and they're kind of rushed through in a—maybe a 1-day event where they're given information, that may not really be digested well that one day, because they're coming home, they're thinking about other things. We believe that services have to be—have to be carried out in a manner that's actually going to be effective. So, we want to be able to monitor what we're doing; we want to be accountable; we want to make sure that the right services are happening for our veterans, and especially homeless veterans, as well as female veterans. And that's why we're making available an amount of \$5 million to start working with female veterans who are coming back and really struggling, many who have experienced sexual assault and may become homeless, as well.

I hope we can work with you on—

Senator SPECTER. Madam Secretary, I'd appreciate it if you'd take a look at the total number of veterans in that category who need that service. Perhaps this is something where there could be some assistance from the Veterans Administration. I serve on the Veterans Committee, used to chair it. And they have a—an extensive budget. And perhaps we could have some coordination there, if, in fact, there is a large number, beyond what you can accommodate within your budget.

Secretary SOLIS. Senator, I'd be happy to work with you on that. Obviously, the Veterans Administration has a much larger budget, as you state, than we do. And I would definitely like to work with Cabinet member Shinseki. We've had discussions about this, and it would—I would very much like to work with you, and, of course, the Chairman, on this.

[The information follows:]

The veterans' courts got their start at homeless veterans stand-down events when organizers decided to provide homeless veterans with an opportunity to address legal barriers such as DUIs, misdemeanors, child support and other legal-related issues which precluded many homeless veterans from seeking reintegration into the mainstream. This concept has been expanded by the Department of Veterans Affairs (VA) to include issues related to mental health and drug courts.

Veterans' Employment and Training Service (VETS) has supported homeless veterans stand-down events through not-for-profits who serve homeless veterans. This support includes local veterans employment representatives and/or Disabled Veterans Outreach Program specialists being available to address employment and training needs of homeless veterans.

Our recent Solicitation for Grant Application (SGA) focusing on incarcerated veterans has a component to address issues that impact on the re-entry of veterans from Federal, State, and local correctional facilities. In an effort to ensure that veterans being served by these grants receive access to a wide-range of services, the SGA contains language which requires partnership with the VA including collaboration with medical centers and especially the VA re-entry specialists and justice outreach coordinators.

VETS' staff recently attended a national VA conference to assist in the training of justice outreach coordinators to ensure that a linkage with local workforce staff occurs to provide employment and training opportunities for veterans who are coming out of incarceration and/or jail.

VETS' staff also attended a defendant/offender workforce development conference to discuss interaction with the criminal justice system in partnership with the VA with correctional institutes and parole and probation officers.

We announced on April 26, 2010, a grant competition under 38 U.S.C. 2021, which provides employment assistance to Veterans who are homeless and this year we have targeted homeless female veterans and veterans with families. Additional information may be found on our Web site at <http://www.dol.gov/vets>

Lastly, VETS is planning a postaward conference for all of their Homeless Veterans Reintegration Program and Incarcerated Veterans' Transition Program service providers and will devote time to discuss the role of the Department of Labor in assisting veterans who are leaving a Federal, State, or local jail as well as working with the VA's justice outreach coordinators to provide a plan for those veterans interacting with the veterans' courts.

MINE SAFETY

Senator SPECTER. The issue of mine safety is a gigantic one. We tend to downplay it until there is a tragedy, and then we're all up in arms about it. In the MINER Act of 2006, there was a requirement for communications gear. An interesting article in the Charleston Gazette reported on a lack of wireless communications in some—only 34 of the Nation's 415 active underground mines possessed fully functional wireless underground communications capabilities. Would you take a look at that issue and let us know

if that figure is accurate, and, if so, what the plans are to cover the balance of those facilities?

Secretary SOLIS. Yes, Senator Specter. I am intrigued by the kind of work that is done by our Mine Safety and Health Administration (MSHA) programs now, and had the opportunity last year to go down and actually visit one of our mines in Virginia, and saw the equipment—some of the more premier equipment that's available for communication. It was explained to me how that works, if there are disasters that occur, what backup plans are necessary. And they're very costly, on both sides—for us to do the inspection, in terms of our staff, but also for the employer. So, there is a need for us to focus more on what mines are not doing, because of their inability or not knowing that these safety precautions need to be put in place. I would certainly want to work with you. I know this is something that our new Assistant Secretary, Joe Main, takes seriously about ways to improve our work in MSHA— and is somebody who has a great deal of respect, I think, from both sides—management and labor.

[The information follows:]

UNDERGROUND COMMUNICATIONS AND TRACKING EQUIPMENT

As of April 2, 2010, there were 414 active underground coal mines and 75 active nonproducing mines required to have electrical communications and tracking (C&T) systems within an approved emergency response plan (ERP). Of those 489 mines, 441, or 90 percent, had an approved ERP that included provisions for a C&T system.

As of March 31, 2010, 58 mines had C&T equipment completely installed and operational in both the outby and inby section loading points. An additional 154 mines were in process of installing C&T systems.

The remaining 229 mines with an approved ERP [441 - (58 + 154)] were awaiting delivery of system components from manufacturers or suppliers. Mine Safety and Health Administration (MSHA) supplemental questions and answers on Program Policy Letter No. P09-V01 states that mine operators must provide to MSHA, within 15 days of plan approval, a purchase order for the communication and tracking systems that will be installed in accordance with an approved ERP. Absent factors beyond the operator's control, the system(s) must be installed within 3 months of the delivery date specified in the bona fide purchase order. As of April 2, 2010, operators with approved plans had purchase orders with delivery dates as late as 2011.

MSHA's districts continue their work with the remaining 48 mines that do not yet have an approved ERP to develop an acceptable plan. In instances where MSHA and the operator cannot come to agreement on an approved plan, MSHA is working with the Office of the Solicitor to take legal action to bring the operator into compliance with the act.

Senator SPECTER. One final comment. You and I have talked about the possibility of your coming to Pennsylvania. It's not as far as Iowa or Mississippi or Rhode Island. The work that you're doing has tremendous impact, generally, but especially on the big cities, on the Job Corps, so many unemployed minorities with so many difficulties. So, we'll pursue that, on the staff level.

Thank you very much, Madam Secretary.

Secretary SOLIS. I look forward to that visit. Thank you—

Senator SPECTER. Thank you.

Secretary SOLIS [continuing]. Senator. Thank you.

Senator HARKIN. Senator Reed.

STATEMENT OF SENATOR JACK REED

Senator REED. Thank you very much, Mr. Chairman.

And thank you, Madam Secretary, for your work and for joining us today.

One of the consequences of this severe financial crisis is more than 30 States have borrowed up to \$35 billion from the Federal Government to continue paying their regular unemployment compensation benefits. And as some States look for ways to pay back their loans and balance their budgets, they're at least contemplating raising taxes on employers, which would be, essentially, counterproductive, in the sense that we are doing all we can to encourage hiring by lowering the cost of employees. The States in this situation would be pushing against us. So, it leads to the obvious question of what we can do to help these States.

In the 1980s, there was some—both permanent and some temporary assistance offered to States who were in danger of credit reduction when they don't repay their loans. I'm wondering what you and the Department are thinking about in this context, and what, together, we can do to provide some assistance.

Secretary SOLIS. Thank you, Senator Reed. And I also want to thank you for the opportunity to visit your State and your Job Corps last year.

Senator REED. Thank you.

Secretary SOLIS. I will say that this is a very serious recession that I still think we are in. And I know that many of our States, including the one that I'm from, California, have seen just unprecedented levels of use of the UI Trust Fund. And yes, we do have to do something. And I'd be happy to work with you to figure out how we can try to fix this, because many—too many people are suffering. And it isn't enough just to think about this in terms of this short-term crisis, but to think, long-term, how we can remedy this.

So, I'm looking and anxious to hear what options you might have, so that I can work with you and take back to—take back to our administration—how we can shorten the time that people get benefits and help the systems work better. There are major problems with the infrastructure, the delivery system itself, the fact that many—even State employees are being furloughed in this area, and that aren't even able to expedite and process some of these applications. And then, to further add to it, the fact that many of our States aren't creating or generating any revenue to pay in, so our businesses aren't able to participate as they, maybe, would have. These are not normal times, and it requires some new thinking. And I look forward to working with you. I hope that's sufficient.

EXTENDING TEMPORARY WAIVER OF INTEREST PAYMENTS

Senator REED. Well, thank you very much, Madam Secretary. I think we understand the problem, and now we have to really roll up our sleeves and see what we can do, specifically. And not only in terms of the efficiencies you outlined, but avoiding the contradiction of Federal policy lowering the cost of employment and State policy raising the cost of employment.

There's another aspect of this issue, and that is: In the Recovery Act, there was a temporary waiver of interest payments and accrual of interest on Federal advances to the unemployment fund through the end of this year. What are your thoughts about extending those provisions for the following year?

Secretary SOLIS. I would want to work with you closely on that to see what we can come up with. I know that the administration is looking at different packages right now. And I know you've been very helpful, with some of your ideas. So, I look forward to working with you. I think you have a great deal of experience in this area that can help us. So, I'm willing to work with you on that.

Senator REED. Well, thank you. I think we all recognize that your advocacy within the Cabinet for this—these programs and these policies is absolutely critical. So, if you work inside, we'll try to work outside, I guess. And we'll work together.

NEW WORKFORCE INNOVATION FUND

One of the aspects of the President's budget is the \$108 million for the new Workforce Innovation Fund, including expanding "learn and earn" strategies, like apprentice programs. And it raises a question, in terms of accelerating apprentice programs that are incorporating these programs in Federal construction contracts. To be specific, we've been working with the Navy, in Newport, and trying to have them recognize this one factor award in their contract award, those companies who participate in apprentice programs, as a way to incentivize them to develop apprentices. And I wonder, generally, across the board, what would be your attitude toward a—including this factor—apprenticeship programs—in the award of Federal contracts.

Secretary SOLIS. Well, Senator, as you know, we have—through the ETA program, we run our own apprenticeship program, as well—a registered program there. And I know that, in the course of this recession, we've really found that some of the best programs are run through these various apprenticeship programs, where you have private industry as well as labor working together, on-the-job training. And the masterful skill and training and certification that's gained by it, I think, makes these individuals much more marketable than if they would've gone through another program. It is—they're more costly, they're limited in reach, in terms of how many people can be a part of this. And I'm looking at ways of how we can expand it. So, I'm actually very favorably looking at how we can do that. So, that's another area that I would like to work with you on.

Through our WIA programs, if I can just mention, we have made it a point to also provide assistance to pre-apprenticeship programs, because there's a lot of folks that want to get into apprenticeship programs, but aren't prepped up enough to understand the requirements and the rigors, because these programs are very highly technical in skill and skill development and the skill sets that must be acquired. And I can see where, if we're going to try to push a new—a whole new generation of people to get into these jobs, we're going to need to have an expansive way of allowing for access to reach more people. So, that's something that we're also exploring, but I definitely want to see more opportunity available so that we can have apprenticeship programs in some of our major Federal projects that we undertake.

So, I very much agree with your statement.

Senator REED. Thank you, Madam Secretary.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you all very much.

SUMMER YOUTH EMPLOYMENT

I just had one follow-up question, Madam Secretary, and it had to do with summer youth employment. The Recovery Act provided \$1.2 billion, we had 300,000 young Americans. I met a lot of them last summer, in my own home State, and we had a meeting March 9, Senator Murray had an amendment that would have provided \$1.5 billion in supplemental funding for DOL's youth for the summer employment program, but it failed, on a budget point of order, even though we had 55 votes in favor of it. But, I'm just wondering how you're viewing the summer coming up. And what can we do with whatever funds you might have? And we're going to have a lot of kids out there that could be working this summer, so how do you see that unfolding? I mean, we're now in March already, almost April.

Secretary SOLIS. Mr. Chairman, I know that this is an issue that both Senator Murray and yourself have been championing for some time. I, too, was disappointed that the proposed amendment was not passed. I'm ready to work with you and other Members of the Senate to see how we can get additional funds. I know the President is committed to seeing this program funded in a way that we can, hopefully, bring in another 350,000 students to participate. Last year, we were at 318,000. We doubled the number of young people that we thought could be involved in the program.

We know it works. It is something very important. I know the House has, I believe, a measure that they're proposing that doesn't go quite as far. I understand that under a Federal Emergency Management Agency supplemental, there will be some amount of money—\$600 million, I believe—which, again, isn't quite the amount that Senator Murray and you were pushing. So, I would want to work with you to see how quickly we can get this done, because people have to plan now, at the local level, to start hiring up and get this program in place. We were very fortunate that, after 10 years, we were able to get this program somewhat up on its feet. But, we want to expand it and make sure that it is available for all those that need this program. And I agree, when you see these students in these programs, some of them are just amazing—the work that they gain, the experience they gain, but also the work ethic that inspires them to want to continue to go to school, but also hold down a job.

Senator HARKIN. I can't tell you how many I talked to last summer that—you know, were thrilled with what they were doing. And many of them are just saving their money to go to college. I mean, this is some of the money that helps them get through school; plus giving them, as you said, job training and work experience, that type of thing; plus helping our economy.

SUPPLEMENTAL APPROPRIATION FOR SUMMER YOUTH EMPLOYMENT

So, I'm hopeful that sometime soon the Congress will be able to appropriate some money for summer youth employment. You just don't have it in your budget. I mean, there's no way we can hire 300,000 young people this summer with what you have. It has to be a supplemental appropriation. And, as you point out, we're now

coming to April—we've got a couple weeks off for Easter break—we come back, so if we're going to do it, we have to do it pretty soon, in order to get the money out, make sure the youth get employed this summer.

I can't think of a more important thing to do in the immediate timeframe than that.

Secretary SOLIS. Senator, thank you. I know this is one of those programs where the money goes out quickly, and it is either spent or it's saved. But, in most cases, some of the students that I met with were actually helping to supplement their income. I met with some students in Puerto Rico that were working on conservation projects along the beach. And you know how tourism is very important to that part of the country. That money, some of the students were telling me, was used to help their families pay rent, because the unemployment rate there is even double. So, it's amazing what young people will do when there is an opportunity made available through these programs.

Senator HARKIN. Sure.

Well, Madam Secretary, thank you again, very much for coming up early.

Secretary SOLIS. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator HARKIN. The subcommittee will have a number of questions for the record. And the record will be open for 10 days for Members to submit additional questions.

Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR TOM HARKIN

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Question. ETA has proposed \$107,651,000 and appropriations language to establish a new Workforce Innovation Fund (WIF). ETA is planning to use not more than 5 percent of an allocation under the proposed adult and dislocated worker WIF for rigorous evaluation of all project funded under the demonstration phase of the program.

How many demonstration grants would ETA award under the program? What would the evidentiary standard be for replication projects using "promising or proven" projects, and how many replication grants would be funded at the requested amount?

Answer. The Innovation Fund will test and replicate innovative strategies for training and re-employment services that respond to the current and future needs of workers and the economy. The mix of demonstration and replication grants, as well as standards for replicating promising or proven program practices, will be developed as part of the Solicitation for Grant Applications (SGA). The number of grants will depend on the size, scope, and design of the grants awarded, and will be influenced by the innovative concepts and promising practices proposed by applicants to address issue areas such as "learn and earn" models, linkages with economic development, supporting regional and sectoral collaboration, reaching underserved populations, working across programs to provide comprehensive services, and enhancing technology to increase the quality or expand the scope of services provided.

WIF also will allow applicants to propose promising practices or approaches they wish to replicate and build evidence that the approach is effective or can be taken to a larger scale. The SGA will include response criteria for applicants to address when proposing to replicate "promising or proven" approaches, which will include

evidence that the approach produces positive performance outcomes or has significant impacts, and other evidence supporting the rationale for replication.

I look forward to working with the subcommittee on this important endeavor and providing further information about our progress and activities.

Both the American Recovery and Reinvestment Act (ARRA) and the fiscal year 2010 Department of Labor Appropriations Act provided local Workforce Investment Boards (WIB) with the authority to contract with institutions of higher education or other eligible training providers if it would facilitate the training of multiple individuals in high-demand occupations and not limit customer choice. The fiscal year 2011 budget continues this authority.

Question. How has the Department of Labor (DOL) monitored and evaluated the use of this authority? Is it a cost-effective mechanism for providing support for training at the local level?

Answer. DOL monitors the use of the authority to contract with institutions of higher education or other eligible training providers under ARRA through our standard desk and on-site grant reviews and other oversight activities. ETA does not collect such information through its approved data collection systems. This authority was also included as part of DOL's fiscal year 2010 appropriation for use during the program year starting July 1, 2010. Use of the authority varies by State, depending on need and program design. However, many local WIBs are using this authority to add flexibility to their program design. In a recession, it is common that the number of students attending training greatly increases and creates a shortage in available training for in-demand occupations. In such cases, contracted training can be useful in expanding opportunities and consumer choice.

The use of contracts to provide training capacity for One-Stop Career Center customers gives local areas flexibility beyond Individual Training Accounts (ITAs) to meet customer needs. Contracting authority allows local areas to cover a larger range of costs than ITAs, allowing local areas to develop new curricula and expand training offerings to meet the skill needs of growing industry sectors. Local areas indicate that contracted training that expands existing program capacity by funding seats during off-hours or at alternate sites can be less expensive than the cost of the class in the traditional setting. In cases where contracted training is more expensive on a per-student basis than an ITA slot, local areas report that the costs of forgoing or delaying training of WIA participants due to limited capacity exceed the additional monetary cost of offering these courses via contract. Increasing training capacity can help low-income adults and dislocated workers enter the workforce more quickly. Therefore, we believe that this authority can offer a cost-effective, customer-driven alternative for providing support for training at the local level.

The fiscal year 2011 request for youth activities includes \$153,750,000 and appropriations language creating a Youth Innovation Fund (YIF). The fund would support grants for summer and year-round employment opportunities, and Work Experience Plus grants.

Question. How many of each type of grant will be awarded at the budget request amount? What would the evidentiary standard be for projects seeking to replicate program practices that are proven successful?

Answer. At the budget request amount, ETA anticipates awarding 30 to 50 grants to support summer and year-round employment opportunities and between 18 and 25 Work Experience Plus grants. Similar to the WIF, the mix of demonstration and replication grants, as well as standards for replicating promising or proven program practices, will be developed for the YIF as part of the SGA. The number of grants will depend on the size, scope, and design of specific projects awarded funding, and will be influenced by the innovative concepts and promising practices proposed by applicants, including strategies to create new partnerships with the private sector, organized labor, public sector, and community organizations, and to test new approaches to delivering work and learning experiences and related services to improve outcomes for underserved populations, such as out-of-school youth, youth with disabilities, or homeless youth. The SGA will include response criteria asking applicants to provide evidence that the proposed approach produces or has the potential to produce positive impacts on educational and employment outcomes.

The fiscal year 2011 congressional budget justification indicates that ETA will continue its focus on developing collaborative systems at the Federal, State, and local level for serving the youth most in need. ETA recently issued guidance on innovative contracting strategies to better serve youth most in need.

Question. Have you seen any changes made in State and local practices related to the strategies outlined in this contracting guidance? Have your efforts on coordination identified other barriers to using resources effectively to serve youth most in need? If so, what are they and what actions are planned by DOL and Federal partners to address them?

Answer. The contracting guidance was released in February 2010 and it is too early to see any changes made in State and local practices related to structuring contracts to better serve the youth most in need. In order to encourage collaboration across systems to more effectively serve the youth most in need, ETA and the Administration for Children and Families in the Department of Health and Human Services issued a joint letter in January 2010 encouraging the workforce system to partner with Temporary Assistance for Needy Families (TANF) agencies to create subsidized employment opportunities, including summer jobs, using ARRA TANF emergency funding. ETA also issued Training and Employment Notice 24-09 to highlight this partnership. Since January, a number of States have started to develop the type of partnerships outlined in the joint letter.

ETA was planning to complete 50-75 on-site monitoring reviews of One-Stop Centers in program year 2010.

Question. What has this monitoring found on the issues of access and services for individuals with disabilities, including specifically physical and programmatic barriers? How do these findings compare to such reviews in program year 2009? How many reviews are planned for program year 2011?

Answer. ETA is currently in the last quarter of program year 2009, and entering program year 2010 on July 1, 2010. Program year 2011 will begin July 1, 2011.

In early program year 2009, in preparation for the addition of ARRA funding, ETA visited all 53 States and territories and 156 local areas for a total of 209 visits to determine their readiness for ARRA activities. These were not monitoring reviews, but integration of programs and accessibility of program services were examined.

In regular program compliance monitoring visits, ETA has monitored 53 States and territories and at least 114 One-Stop Career Centers in program year 2009. The small number of compliance issues identified included the weight of a One-Stop entrance door in Delaware and a Washington, DC youth classroom on the second floor without elevator access. Both areas resolved the problem. Most regions report no issues, and state that centers have been successful in building up the training and resources for staff, as well as additional resources and relationships with employers for individuals with disabilities. In region 6 for example, California, Arizona, Idaho, and Hawaii have been pursuing the purchase of additional assistive technology and upgrades to existing assistive technology for their comprehensive One-Stop Career Centers. The States of California and Arizona have also increased sponsorship and coordination efforts to promote the availability of accessible programs and services for people with disabilities, and have utilized a portion of their Wagner-Peyser ARRA funds to increase awareness of service accessibility for people with disabilities. Whenever issues of compliance arise the regional office issues corrective action plans and provides technical assistance, and ETA advises States to closely monitor implementation of the corrective action plans.

In addition, Office of Disability Employment and ETA will conduct a separate independent survey of the physical, programmatic, and communications accessibility of the One-Stop Career Center system in the fall of 2011. DOL anticipates that a number of large, medium, and small comprehensive One-Stop Career Centers will be selected across several States. A full survey of accessibility will be conducted in the fall of 2011 that includes review of WIB policies and procedures relative to the availability of intensive and training services for individuals with disabilities.

Work plans for monitoring have not yet been formulated for program year 2011, which begins July 1, 2011. However, we anticipate a similar number of local reviews in program year 2010 and 2011 as were conducted in 2009.

The 2011 request for Job Corps operations is \$1,572,253,000, a decrease of \$1,762,000 below the 2010 level. The budget indicates that "The budget requires that efficiencies within Job Corps operations are pursued."

Question. Please describe the efficiencies that Job Corps has achieved in recent years and what may be pursued in 2011 that will not compromise the outcome goals of the program.

Answer. The Office of Job Corps routinely seeks program efficiencies that produce a cost savings without compromising the effectiveness of service to its students. As part of the 2011 budget, the program is pursuing a reform agenda to identify additional operational efficiencies and improve student outcomes.

One of the operational efficiencies Job Corps is pursuing is to reduce ever-increasing utility and fuel costs. The activities Job Corps plans to conduct include: reducing the program's General Services Administration vehicle fleet; replacing traditional vehicles with alternative energy-efficient electric vehicles; and ARRA-funded energy efficient upgrades that will reduce utilities costs at Job Corps center facilities. To complement these efforts, we have implemented a nationwide energy conservation campaign, funded by ARRA, which promotes the adoption of "green" practices by

students and staff. Further, our new Job Corps centers are being built to meet Leadership in Energy and Environmental Design specifications and will be state-of-the-art, energy-efficient facilities.

Job Corps also is working to maximize centers' slot capacity utilization, which includes increasing student retention. The program anticipates an increase in students' average length of stay as a result of our rigorous career technical training system that includes industry-focused foundations courses for new students and the incorporation of industry-recognized certifications. Under this system, students need to remain in the program longer to complete program requirements and this increased retention will reduce costly student turnover.

Finally, Job Corps is exploring ways to decrease the cost of large-scale, on-center services, such as basic medical care and prescription drugs, without compromising the quality or provision of these services to students. The program also will evaluate its discretionary national office support contracts for possible reduction or conversion to Federal staff.

Question. What connections have been made across systems to provide support to Job Corps students eligible for services through systems, such as Medicaid?

Answer. As part of the admissions process, and upon conditional enrollment, students are asked to provide verification of any private insurance or Medicaid coverage. If the applicant has no coverage, center staff assists the applicant in applying for either State medical coverage and/or Medicaid.

The Job Corps program also encourages all centers to establish working relationships with their local health departments and community health organizations. This allows the program to augment its available resources to deliver a wider array of services.

Job Corps Health and Wellness Desk Reference Guides developed for center health and wellness managers, center mental health consultants, disability coordinators, and center physicians provide suggestions and examples for cost-saving strategies by developing relationships with community resources (e.g., check for agencies that may be receiving grant money to provide a range of services—from mental health to family planning to nutrition planning; contact local health department and review what services are available at no cost to Job Corps students; review with local hospital and associated clinics their policies on providing free/low-cost services to economically disadvantaged patients).

Technical Assistance Guides (TAGs) provide guidance regarding community connections (e.g., TEAP TAG encourages centers to establish community connections that support relapse prevention efforts and provides examples (e.g., self-help groups). The Family Planning TAG encourages centers to supplement program components not available on center with free or low-cost community resources and provides examples. The Immunization TAG encourages centers to contact their State/local health departments to determine vaccine availability under the Vaccines for Children (VFC) program which provides free vaccines to children who are on Medicaid, are without insurance or underinsured, or are Indian/Alaskan Natives).

Regional office staff monitors the health and wellness programs as part of their regular monitoring of the centers.

The Advisory Committee on Job Corps made a number of recommendations about improving services to students with disabilities through Job Corps centers.

Question. What actions is ETA taking or planning to take to help improve such services? How does the 2011 budget support such these actions?

Answer. The Job Corps Advisory Committee made a number of recommendations to improve Job Corps' handling of students with disabilities. We have already pursued several recommendations, and seek to continue their implementation as part of our 2011 budget request.

One recommendation was to improve center staffs education about disabilities. The program responded by dramatically increasing its training opportunities for center staff through platform trainings, webinars, the provision of on-site technical assistance, and the deployment of information toolkits through the Job Corps Disability Web site.

The Advisory Committee also suggested that centers hire special education teachers to assist students with disabilities. Job Corps centers are encouraged to employ these teachers, whenever possible. The Office of Job Corps will continue to work to increase the number of special education teachers at our centers.

In keeping with the Advisory Committee's recommendation, Regional Disability Specialists have been employed by Job Corps and support centers in their respective regions. These specialists serve as technical experts and provide center staff with assistance in the area of disability accommodations and education.

Another committee recommendation was to improve employer outreach for the hiring of students with disabilities. Job Corps is conducting webinars for placement

staff on communicating with employers about the benefits of hiring students with disabilities.

We also created tools and identified resources that would improve students' self-advocacy skills, enabling them to become knowledgeable of and confident in their rights. Additionally, Job Corps has expanded its strategic alliances with other groups to better leverage and augment the disability-related services it can provide.

The budget request indicates that funds have been requested for a "compensation adjustment" for professional Job Corps staff and further indicates that staff compensation is a part of "program reform."

Question. Can you describe what "program reform" means and how the 2011 budget will be used to support to support this effort?

Answer. The Office of Job Corps' agenda for program reform will include identification of program inefficiencies that can be resolved to produce savings, such as reducing fuel and utility costs, maximizing centers' slot capacity and improving student retention, and taking advantage of economies of scale for targeted on center services.

Job Corps is also planning to conduct an assessment of its operational structure, with a particular focus on center performance. The review will examine variations in the way the program model is being implemented across centers and identify best practices at high-performing centers that can and should be replicated across the Job Corps system. In response to the findings, Job Corps will develop aggressive improvement plans to assist lower performing centers. The administration has begun the process of procuring an outside evaluator to conduct this review.

To maintain high-quality instruction, one specific challenge that Job Corps faces as part of reform is staff compensation levels for our academic and career technical training instructors. Job Corps analyzed a sample of academic and career technical instructor salaries in April 2009. The sample was representative of instructor salaries at approximately 30 percent of centers operated by private or nonprofit contractors. Selected centers were located across all six regions and included large and small centers in urban and rural locations. The results of the sample showed that Job Corps instructor salaries averaged \$19.89 per hour (\$41,371 annually) contrasted with a Bureau of Labor Statistics (BLS) national instructor average of \$34.62 per hour (\$71,999 annually). Individual analysis by center indicated some variations based on geographical location.

As part of the 2011 budget, DOL proposes adjusting compensation levels to place our instructors on equal footing with their counterparts in the public school system. Over the past several years, the program has had difficulty in attracting and retaining qualified instructors, due to the disparity in income of these two groups.

Misclassification of employees as independent contractors is a significant issue that denies employees benefits to which they are entitled and results in revenue losses for the Unemployment Insurance Trust Fund and other accounts.

Question. Please describe how ETA will structure each of the grant competitions for the \$10,950,000 in State Unemployment Insurance and Employment Service Operations (SUIESO) funds requested for the misclassification initiative.

Answer. ETA is currently working to develop an implementation plan for these grants. We anticipate the grants that will enable States to build their capacity to identify worker misclassification in the context of the Unemployment Insurance (UI) program will focus in two key areas: technology infrastructure to engage in cross-agency information sharing and capacity to do more targeted employer audits. These grants will be awarded competitively. State workforce agencies responsible for administering the UI program will be the eligible grantees.

The second type of grant will focus on States that have been aggressive and innovative in developing processes to identify and correct worker misclassification in the context of the UI program. These grants will be competitive and will require States to have demonstrated results as a criterion for receiving an award. States will also be required to identify how they will use the grant funds to further their ability to be successful in identifying worker misclassification.

Question. Would DOL's misclassification initiative be assisted by changes in the Fair Labor Standards Act (FLSA) expanding employer record keeping, requiring notices to newly hired workers explaining their classification and their rights, increasing penalties against employers who misclassify their workers, and protecting workers from retaliation for challenging their employment status?

Answer. Cross-agency collaboration has already begun, under the leadership of the Vice President's office, to improve identification of worker misclassification across programs. DOL is exploring all possible options for addressing misclassification, including ways to provide better guidance to both workers and employers, and to increase information sharing between DOL agencies and the States that are also working on this issue. DOL's Wage and Hour Division (WHD), which

is responsible for enforcement of the FLSA, is planning to update the FLSA record-keeping regulations. As part of this rulemaking, WHD is considering requiring employers to notify workers of their rights under the FLSA and their status under FLSA as an employee or independent contractor. Your suggestion will be provided to the working group which is exploring ways to reduce worker misclassification.

SUIESO

Question. The 2011 budget request includes \$18.52 million for administration of the Work Opportunity Tax Credit (WOTC). It also indicates that application backlogs may exceed 1 million by the end of fiscal year 2011. The congressional budget justification indicates that “ETA proposes to conduct an intensive strategic management analysis to identify the administrative tools, process improvements, and IT investments that could support States in their efforts to reduce pending applications.”

ETA already has undertaken a “comprehensive program review” of the WOTC program. What were the findings of this review, and related planned and implemented actions? What is the timeline for completing the intensive strategic management analysis?

Answer. In the 2009 comprehensive review of WOTC, ETA used State performance reports and information from State and regional WOTC coordinators to identify the States that had the largest backlogs. ETA then followed up with individual calls to the 10 States with the largest backlogs to discuss the reasons for the backlogs and to ask them to develop corrective action plans when necessary. Additionally, as part of its comprehensive technical assistance strategy, ETA has worked with all States to identify the causes of backlogs and successful ways to remediate backlogs based on anecdotal information. This information is disseminated to States through ETA’s regional offices. The information obtained from the 2009 review did not yield adequate promising practices that could be implemented to reduce backlogs, and ETA now believes a comprehensive strategic management analysis of the WOTC certification process is necessary.

This comprehensive strategic management analysis will be used to assess application processing system protocols, recommend action to improve processing and reduce the current backlog of WOTC applications, and recommend information technology (IT) solutions, especially for States with little or no automation. The analysis will be based on a selected sample of State Workforce Agencies (SWA), and will employ various data collection methods such as review of operational material, and site visits. Based upon the findings, a report will include recommended actions for ETA to provide SWAs with promising tools and practices to reduce application backlogs, to improve the application process, and to suggest IT solutions reduce application backlogs. Once a contract is awarded, ETA anticipates the review to be conducted over 3 to 4 months, with expected completion by the end of August 2010.

In an era when a growing majority of families are headed by two working parents or a single wage-earner, paid leave programs are one cornerstone of a vital support system for working families that also includes paid sick days for short-term illnesses, increasing the availability of flexible work arrangements, and other family-friendly initiatives.

Question. How would funds requested for the new State paid leave fund be allocated to States and for what purposes may the funds be used?

Answer. DOL is currently developing a more detailed implementation plan for the State paid leave funds requested in the fiscal year 2011 budget. While DOL anticipates that the bulk of the funds will be given to States for implementation grants, because States are in varying degrees of readiness for implementation, the Department may offer smaller planning or expansion grants. Implementation grants will be targeted to those States demonstrating a readiness to implement a State paid leave program, and funds may be used for the administrative costs associated with ramping up the program such as putting technology infrastructure in place and implementing an outreach effort to educate workers on their eligibility for benefits. All States will be eligible to apply for these grants.

Question. What further steps does DOL plan to take to promote policies that help workers balance their work and family obligations, under ETA, the Women’s Bureau (WB), and other DOL agencies?

Answer. In fiscal year 2011 the WB will build on the lessons learned from its successful flex-options project. Workplace flexibility solutions, such as flexible work schedules, family-friendly leave policies, and telework, help employees navigate their work, family, and personal responsibilities, while simultaneously helping employers meet their recruitment/retention needs and helping communities ease traffic congestion and reduce their carbon footprints. Utilizing proposed funding provided in the fiscal year 2011 submission, WB will work with BLS to initiate the collection

of data on parental leave, child care responsibilities, family leave insurance programs usage, and other data related to the intersection of work and family responsibilities. WB will work with other DOL and Federal agencies, employers, women's organizations, and other stakeholders to use data and expand flexible workplace practices, and to promote laws and policies to help workers achieve work-life balance.

Question. What legislative changes are necessary to assist the administration in achieving its goals?

Answer. Apart from the Department of Labor's fiscal year 2011 Appropriations Act, no additional Federal legislation is necessary to implement the State paid leave grants. Should the need for legislative changes be identified in our ongoing work in this area, we will be happy to work with the Congress to develop legislative proposals.

INJURY AND ILLNESS RECORDKEEPING

Question. This subcommittee has raised concerns over the past several years about the underreporting of workplace injuries and illnesses, and directed OSHA to enhance its oversight and enforcement of employer injury and illnesses recordkeeping. As a result, OSHA has initiated a national emphasis program (NEP) designed to address this issue.

Why did OSHA complete almost one-third fewer recordkeeping inspections than targeted for fiscal year 2009? How will OSHA ensure that NEP recordkeeping inspections stay on track in 2010? What has OSHA found through its NEP, particularly its programmed inspections in fiscal year 2009 and fiscal year 2010? How does the 2011 budget request build on these findings? How much funding is included in the request to continue the program?

Answer. OSHA's NEP on recordkeeping was originally scheduled to be implemented on August 1, 2009. After undergoing extensive revisions during summer 2009 to ensure that the NEP would lead to the detection of the underreporting of injuries and illnesses, the NEP was implemented on September 30, 2009. Due to the extensive work on preparing the content and administration of the NEP, the recordkeeping inspection total for fiscal year 2009 dropped, and was not part of the NEP.

The recordkeeping NEP is designed to be maximally sensitive to under-recorded and mis-recorded injuries and illnesses in selected establishments, and to enforce the agency's recordkeeping requirements. Inspections under the NEP assess the accuracy of the information employers are required to record on the OSHA 300 log. The agency issues citations and penalties, as appropriate, for recordkeeping violations. The NEP targets establishments operating in historically high-rate industries that have reported low rates of injuries and illnesses. The program also includes establishments in the construction and poultry-processing industries, due to the inherently high-hazard nature of the work in those industries, and to questions that have been raised regarding recording practices in those industries.

Assessments of the accuracy of establishment-specific recordkeeping data are made by conducting interviews with employers, employees, company recordkeepers, first-aid providers, and healthcare providers. The assessments include a review of relevant records and documentation, such as medical records, workers' compensation records, and first-aid records. The NEP complements other efforts to evaluate and verify the accuracy of injury and illness rates, including OSHA's data initiative audit, and the BLS' efforts.

In fiscal year 2010, OSHA intensified training of its Compliance Safety and Health Officers (CSHOs) on identifying potential problems in recordkeeping data and systems. The agency's Training Institute staff revised the core curriculum for CSHOs to include a week-long mandatory training course on recordkeeping. OSHA plans to continue its recordkeeping NEP through fiscal year 2010, at which time the program will be assessed and recommendations will be made on whether or not to continue it in its present form. Assuming the assessment at the end of this fiscal year leads to the recordkeeping NEP continuing in its present form, the fiscal year 2011 budget request makes \$1 million available for the recordkeeping enforcement initiative to maintain the number of recordkeeping inspections planned for fiscal year 2010.

Following are the results of Federal and State inspections conducted under the recordkeeping NEP during fiscal year 2010.

Recordkeeping NEP Inspections as of 4/19/10

OSHA has initiated 104 Federal inspections under the recordkeeping NEP through April 19, 2010. Of the 104 inspections, 11 have involved the issuance of citations for 45 violations of the recordkeeping regulation (part 1904), resulting in

\$25,450 of penalties. It should also be noted that the vast majority of the 104 inspections are still open and subject to the citation of additional violations.

State Plan Inspections

Total inspection = 33 (31 are from the State of Oregon)
NIC inspections = 15

HIRING PLAN FOR ENFORCEMENT STAFF

Question. The budget request includes \$227.149 million for Federal enforcement, which is an increase of \$29.203 million and 160 full-time equivalents (FTE) more than the 2009 level.

What is DOL's plan (timeline and associated activities) for hiring these additional staff?

Answer. OSHA is committed to a hiring plan that emphasizes increasing its enforcement staff. Since February 2009, the agency's regional offices have hired 185 staff, of whom more than 150 are CSHOs and 13 are whistleblower investigators. The agency has a target of filling 270 positions during fiscal year 2010, and estimates that 150 possible hires are currently in the selection process, 100 of which are CSHOs. The number of hires since February 2009 and the target for hiring in fiscal year 2010 both account for historical attrition rates, therefore leading to goals that are greater than the requested FTE increases in fiscal year 2010 and fiscal year 2011.

OSHA maintains relationships with a wide variety of academic institutions and professional and trade groups to promote career opportunities within the agency. A Federal Career Intern Program has been implemented to add another facet to the agency's recruitment strategies for attracting highly qualified CSHOs, including future whistleblower investigators, to help the agency meet its hiring goals.

ERGONOMICS ENFORCEMENT

Question. Last year, the subcommittee encouraged OSHA to consider collecting information on musculoskeletal disorders in a separate column on the agency's recordkeeping form. OSHA plans to issue a final rule that will allow for the collection of this information.

How will this request enable OSHA to move forward on ergonomics-related enforcement activities?

Answer. A final rule will be issued in 2010 to revise the Occupational Safety and Health Administration's (OSHA) recordkeeping form to restore a separate column on musculoskeletal disorders (MSD) that was removed from the form in the last administration. Restoring this column will improve the workplace injury and illness data collected by OSHA and BLS. Having more complete and accurate data will further our understanding of work-related MSDs, which is certainly beneficial to any ergonomics research, and also better inform employers about ergonomic hazards in their workplaces.

OSHA has also launched a recordkeeping NEP, which will help ensure that musculoskeletal injuries are being recorded accurately by employers filling out the OSHA recordkeeping logs.

OSHA plans to continue to use the general duty clause, when appropriate, for enforcement when inspections find unaddressed hazards causing or likely to cause musculoskeletal injuries.

EVALUATIONS OF STATE PLANS

Question. The subcommittee provided additional funding under the OSHA State Plan program to help State Plan States rebuild capacity that has been lost in recent years. OSHA has also announced plans to conduct baseline special evaluations of each State plan during fiscal year 2010. These evaluations seek to better assess the current performance of each State plan and identify issues of concern.

What is the timeline for assessing these plans? How will OSHA help State Plans address deficiencies identified during these evaluations? How will the 2011 budget request help meet the requirement that State plans be at least as effective as Federal programs?

Answer. Since December 2009, OSHA regional offices have been conducting enhanced evaluations of State plan performance during fiscal year 2009. These reviews, which emphasize enforcement, are in the process of being completed, and we plan to issue the special baseline evaluation reports by early this summer. Upon completion of the reports, the States will be expected to develop corrective action plans with timetables to address any deficiencies identified. We do not expect to find significant deficiencies in all State plans, but will continue to address problems that

we do find and ensure that the State plans fulfill their commitments for effective programs. OSHA offers formal training to State plans and will provide informal training and technical assistance at the regional level upon request in areas such as accident investigations and enforcement of specific standards. In addition, OSHA will continue to communicate with States and monitor their progress in meeting their commitments as part of the national OSHA program.

The additional \$1.5 million in grant funding requested for the States in fiscal year 2011 is intended to provide additional funding for increased personnel, staff training and equipment, and specific enforcement initiatives, which should enable the State programs to better keep pace with Federal developments and remain at least as effective as the Federal program. This funding should also allow all States to fill vacant positions and prevent them from reducing their programs due to budget shortfalls. As the economy improves, States are expected to use the additional funds for program enhancements.

TIMELINES FOR RULEMAKINGS

Question. Please identify the timelines for completion of the safety and health standards work with respect to notices of proposed rulemaking (four expected in each of fiscal years 2010 and 2011) and final rules (five expected in fiscal year 2010 and four expected in fiscal year 2011).

Answer. OSHA is revising its regulatory agenda to reflect the administration's priorities and new initiatives. The regulatory program is being expanded with the additional personnel authorized in the fiscal year 2010 budget, and the expansion will continue if the additional resources requested in fiscal year 2011 are provided. Five proposed rules are planned during fiscal year 2010. On January 29, 2010, OSHA published a proposal for a musculoskeletal column on the OSHA 300 injury and illness log, and received comments until March 30, 2010. The agency is reviewing the comments, and anticipates publishing a final rule in July 2010. Additionally, a proposal for walking and working surfaces will be published this spring. Proposals for standards improvement and consultation agreements are in the final stages of review, and will also be published soon. Finally, a proposal and direct final rule to implement a court remand for the hexavalent chromium rule were published on March 16, 2010, and the direct final rule is anticipated to become effective during fiscal year 2010.

In addition to the hexavalent chromium and musculoskeletal disorders column rulemakings, OSHA is on target to publish five other final rules during fiscal year 2010. Three of these, including two whistleblower standards and the final rule for construction cranes and derricks, are considered to be high-priority rulemakings. The cranes and derricks rule was submitted to the Office of Management and Budget (OMB) for Executive Order review on April 7. The other two rules are currently in internal review, pending submission to OMB. OSHA has also completed final actions for the abbreviated Portacount respirator fit-testing method rulemaking and the acetylene consensus standards update.

OSHA projects that the agency will publish four proposals in fiscal year 2011. Two new, high-priority items were added to the spring regulatory agenda, a rulemaking on injury and illness prevention programs and one to modernize OSHA's injury and illness recordkeeping regulations. The next step for the injury and illness prevention programs rulemaking is to hold stakeholder meetings in anticipation of publishing a proposal during fiscal year 2011. Additionally, during fiscal year 2011, the agency plans to publish proposed rules for beryllium, silica, and an update of the injury and illness recordkeeping industry exemptions to be consistent with newer industry classification systems.

OSHA plans to publish five final rules during fiscal year 2011. The final rules for nationally recognized testing laboratories, consultation agreements, and shipyard general working conditions are anticipated to be completed at the beginning of fiscal year 2011. The final rule for electric power and generation is also on track for publication in fiscal year 2011. Finally, the hearings to update the hazard communication rule have been completed, and the posthearing comment period will close on May 31, 2010. After OSHA reviews the comments received, the agency will begin work on the final rule—preamble, regulatory text, and economic analyses—which is projected to be published in fiscal year 2011.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

Question. In 2010, funds appropriated for the SCSEP were increased to provide more opportunities in paid community service training and service for unemployed, low-income older persons.

What plans do you have for future support of this dramatic increase in funding for a program of considerable importance to low-income seniors and community service agencies throughout the country?

Answer. The fiscal year 2011 budget requests a total of \$600,425,000 for the SCSEP. This amount equals the base amount of the fiscal year 2010 appropriation and is a \$28.5 million increase more than fiscal year 2009. The fiscal year 2010 appropriation of \$825,425,000 included a one-time special infusion of \$225 million into SCSEP to quickly serve additional unemployed, low-income seniors in the current difficult economic times. However, as the economy continues to improve, we believe that the fiscal year 2011 budget request of \$600,425,000 is appropriate and will provide part-time employment opportunities in community service for low-income older workers.

In part, due to the recession, many seniors have expressed a need for skill training funds specifically appropriated for low income older workers in the Workforce Investment Act (WIA) funded one-stop centers.

Question. How is the Department of Labor (DOL) planning to address the needs of a growing older population of job seekers in the workforce development system in the near to intermediate term?

Answer. Older workers will account for an increasingly large portion of America's workforce in the decades ahead. The public workforce system under the WIA has served an increasing number of older workers over the past few years and currently provides job training and employment services to older workers at a rate roughly equal to their share of the total unemployed workforce.

DOL plans to address the needs of this growing older population of job seekers in several ways. We will continue to help employers recognize the value of older workers as talented and productive employees and as mentors to younger workers. Last summer, we invested \$10 million in 10 demonstration grants under the Aging Worker Initiative (AWI). These grants are designed to expand the public workforce investment system's understanding of how to best serve older workers, and develop models to share with all local workforce investment areas. AWI focuses on providing training and related services to individuals 55 and older that result in employment and advancement opportunities in high-growth sectors. Its ultimate goal is to provide better, more expansive services to older Americans for many years to come. In fiscal year 2011, DOL will utilize the results of the AWI demonstration grants to build the capacity of the public workforce system to better serve additional older workers who need and want good jobs. DOL will build on lessons learned and its experience under the "regular" SCSEP and additional American Recovery and Reinvestment Act (ARRA) investments to encourage and expand "green" jobs opportunities for older, low-income workers. In addition, DOL will continue to encourage the One-Stop Career Center system to increase its role in assisting older workers who want to update their skills, helping job-ready older workers obtain employment, and breaking down the barriers to fair and diverse work places for older workers.

The national sponsor for the SCSEP serving American Indians often operates in areas with unemployment rates considerably higher than the average for the United States. This makes placement into unsubsidized employment extremely difficult and reflects poorly on the sponsor's evaluation.

Question. Does DOL have plans for recognizing local unemployment conditions when evaluating placement rates for national sponsors serving seniors in such areas?

Answer. DOL currently takes into account local economic conditions during the annual performance goal negotiation process with each grantee, including two grantees that serve primarily the American Indian community—the National Indian Council on Aging and the Institute for Indian Development. The past performance of each SCSEP grantee (which reflects conditions faced at the local level) is also a key factor in determining performance goals. During the annual negotiation process with DOL, each grantee is urged to present information about unemployment and other economic factors which create additional barriers to meeting performance goals. In addition, any grantee may present new information during the program year regarding local or regional economic or environmental emergencies that could justify an adjustment of goals. Mid-year goal adjustments can also be made based on national economic conditions.

The national sponsor serving Asian and Pacific Island aging communities through SCSEP has articulated high barriers to providing service: 85–95 percent of enrollees have limited or non-English speaking proficiency (depending on the project site), some have literacy issues, and many are new immigrants with limited U.S. work history and access to social security or pensions. In short, this sponsor reaches out to the most difficult to serve and vulnerable of our seniors. These characteristics make it unrealistic to continuously meet performance requirements. A distinct challenge, for example, is the average earnings performance measure which requires that enrollee who exit the program for unsubsidized employment earn an average \$13,000 per year. The sponsor considers it a success when enrollees move on to unsubsidized employment, particularly with benefits. However, evaluating program performance based on earnings level penalizes an otherwise successful performance.

Question. What is DOL doing to address these special situations with SCSEP so as to minimize the negative aspects of a “one size fits all” approach to performance evaluation?

Answer. DOL does not use a “one size fits all” approach to performance evaluation; rather it takes into account labor market and economic conditions. For example, the National Asian Pacific Center on Aging (NAPCA) serves a large number of participants with language barriers—89 percent in the four quarters ending December 31, 2009—and its overall performance is good. While NAPCA has not yet met its negotiated entered employment rate goal of 39.9 percent for the 6-month period between July 1 and December 31, 2009, it has exceeded its average earnings goal of \$6,490 for SCSEP participants placed in unsubsidized full- or part-time employment. In addition, its employment retention goal for participants who obtained employment is only 0.1 percent below the performance goal of 67.6 percent for that time period.

The Employment and Training Administration (ETA) is currently in the process of implementing a regression-based model for the major programs in the workforce system. This regression-based model addresses the negative aspects of a “one size fits all” approach to performance management because it applies economic conditions, such as the unemployment rate, and program participant characteristics to adjust program goals and targets. ETA is currently applying this model to the SCSEP national performance goals and plans to extend the model to State and local areas over the next 2 years.

National sponsors of the SCSEP serving American Indians and Asian Pacific Islander Americans are often limited to serving only those enrollees in the counties assigned by DOL. This leaves large segments of the American Indian and Asian Pacific Islander American seniors inaccessible to these national sponsors best-equipped to serve these elders in terms of language and cultural sensitivities.

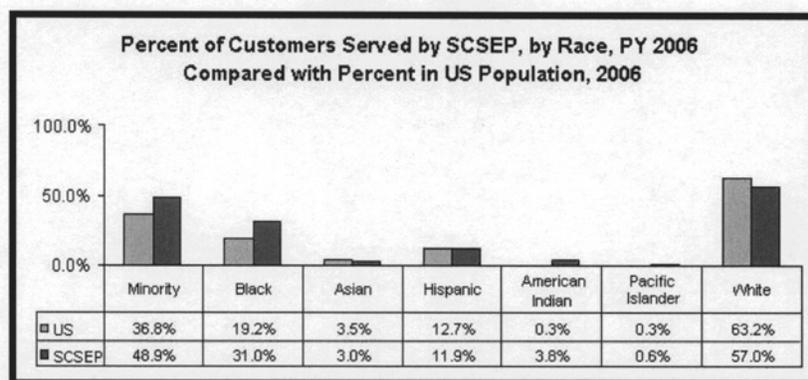
Question. What can DOL do to better align these national sponsors with the seniors they are equipped to and charged with serving?

Answer. Current legislation directs DOL to allocate authorized positions on a county level. Because the American Indian and Asian Pacific Islander populations are widely dispersed, DOL requires each SCSEP grantee to serve the minority individuals residing in the county(s) where they provide service. Nationally, SCSEP serves a substantially higher proportion of minorities than their incidence in the population. For example, 48.9 percent of SCSEP participants are minority compared with 36.8 percent in the U.S. population. SCSEP also serves slightly higher proportions of three specific minority groups—Blacks, American Indians, and Pacific Islanders—than their incidence in the population. The following table shows the distribution of minority participants served by the SCSEP grantees as a whole and by each of the three current minority grantees during calendar year 2009.

SCSEP minority participants	Total number served by all SCSEP grantees	Number served by the National Asian Pacific Center on Aging	Number served by the National Indian Council on Aging	Number served by the Institute for Indian Development	Total for minority grantees
Hispanic, Latino, or Spanish origin	9,660	21	57	1	79
American Indian or Alaska Native ..	2,160	1	438	24	463
Asian	2,696	736	7	.....	743
Black or African American	27,135	44	71	98	213
Native Hawaiian or Pacific Islander	598	13	1	.....	14

We are working to complete a report on service to minorities and will have more recent data in a few weeks. In the interim, the following table demonstrates the percentage of minority groups served by the SCSEP in comparison to the percentage

of minority groups in the U.S. population aged 55 and older as of 2006. Data from the past 2 years show no disparities in service that impact minorities overall and few for individual minority groups.



As the economy slows, global competition intensifies, and energy costs rise, many industries such as agriculture are releasing workers. Nowhere is this more evident than in Hawaii with the termination of all dairy operations on the island of Oahu and the rapid collapse of century-old sugarcane and pineapple plantations throughout the State. These dramatic changes are occurring at a time of increased awareness of Hawaii's fragile food security and increased need for food safety at all levels of the food production chain.

Question. What steps are you taking to harness the potential of dislocated agricultural workers to address the unique food security and food safety issues found in Hawaii?

Answer. The WIA of 1998 established a decentralized public workforce system where information about and access to a wide array of job training and employment services are available through local One-Stop Career Centers. DOL allocates WIA funds to States using statutory formulas, and States such as Hawaii, in turn, use similar formulas to allocate funds to local workforce areas to be administered by local workforce investment boards that plan and oversee the local system.

Workers that lose their jobs can access three levels of service through local One-Stop Career Centers: (a) "core" services including outreach, job search and placement assistance, and labor market information; (b) "intensive" services including comprehensive assessments, development of individual employment plans, career planning and counseling, and supportive services such as child care and transportation; and (c) "training" services, including occupational classroom or on the job training that can be combined with basic skills training, and entrepreneurial training. Eligible farmworkers in Hawaii also can access a range of services through the National Farmworker Jobs Program grantee Maui Economic Opportunity, Inc. located in Wailuku. Thus, Hawaii is well-positioned to address the needs of the local economy and to help workers affected by the termination of food production operations transition to good jobs. As the State of Hawaii develops policies and strategies to address food security and food safety issues, the public workforce system will be available to support its workforce development needs.

Question. Can you share your DOL's vision of what a robust, highly effective summer jobs program looks like, how we get there, and how we make it as inclusive and responsive to the needs of all eligible youth?

Answer. A robust, highly effective summer jobs program would include a broad outreach and recruitment strategy focusing on both in-school youth and disconnected, out-of-school youth; broad employer outreach in both the public and private sector to ensure a broad range of summer job options for youth including opportunities in high-growth or high-demand industries such as healthcare and green jobs; and, an assessment of each youth's skill level, interests, and needs in order to match them to the summer job that would provide the greatest benefit for them and their employers. In addition, such a summer jobs program would offer a thorough orientation for both youth and employers; work readiness training for youth to prepare them for their summer job; a monitoring strategy for both youth and worksites to ensure quality work experiences and to provide support to both youth and employers if any issues with the youth's employment arise; and transition services following

summer employment to ensure youth successfully transition into education or to unsubsidized employment. Through the implementation of summer employment opportunities under ARRA, local programs are on their way to achieving this vision, and through DOL's fiscal year 2011 budget request for a Youth Innovation Fund, DOL will fund innovative summer employment models to continue these efforts and learn which particular approaches produce the best employment and educational outcomes for youth. The strategies identified above will assist in making summer employment programs inclusive, responsive to the needs of all eligible youth, and benefit local communities.

APPRENTICESHIPS

Question. Madam Secretary, I believe we have an underappreciated and underutilized jewel in our Nation's apprenticeship system. As you know, exceptional apprenticeship programs combine rigorous academic and technical instruction with authentic, on-the-job training and learning. As a result, these programs are highly valued by employers, unions, and students.

How we can continue to grow our apprenticeship programs, and rebuild our Nation's ability to fill middle and high-skills occupations and grow key industries, such as those in the emerging green economy?

Answer. ETA continues to focus on expanding registered apprenticeship opportunities for America's workers, enabling them to "learn while earning" along career paths to middle- and high-skilled occupations, particularly those in high-growth industries and the emerging green economy. DOL's efforts have centered on: (a) expanding resources available to the National Apprenticeship System; (b) increasing the budget for the Office of Apprenticeship to plan, encourage, and register apprenticeship programs; and (c) promoting partnerships between the broader workforce system and registered apprenticeship programs.

For example, a significant number of DOL's recently awarded ARRA competitive grants included registered apprenticeship as a critical partner in training and employing thousands of workers in green industries and occupations. In addition, DOL recently awarded \$6.5 million in grant funds to 11 national organizations to expand and advance apprenticeship programs, with many upgrading their training efforts to meet the needs of the emerging green economy. Finally, DOL's fiscal year 2011 budget request includes a proposal for an employer-paid fee on H-2B visas that would support a new grant initiative to expand registered apprenticeship at the national, State, and local levels.

DOL's fiscal year 2011 budget would increase the budget for the Office of Apprenticeship by approximately 35 percent from the fiscal year 2009 budget of about \$21 million. This increase will ensure that the Office of Apprenticeship will meet its core responsibilities for the promotion of registered apprenticeship, partnering with State agencies, protecting the welfare of America's apprentices, ensuring equal opportunity, and fulfilling new responsibilities resulting from recent regulations that strengthen performance accountability for the National Apprenticeship System.

DOL also encourages State and local workforce agencies and boards to expand registered apprenticeship programs that can prepare workers for careers in the renewable energy sectors and for other "green jobs". We have developed, offered, and plan to expand a series of regional "Collaborate for Success: Partnering with Registered Apprenticeship Action Clinics" where State-based teams learn how to incorporate registered apprenticeship into their workforce development strategies and learn how to improve partnerships with community colleges, community-based organizations, healthcare providers, "green" employers, and economic development entities.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

STATE PROGRAMS

Question. Along with 26 other States, my home State of Washington, under an agreement with Occupational Safety and Health Administration (OSHA), operates an occupational safety and health program in accordance with section 18 of the Occupational Safety and Health Act of 1970. Washington State's OSHA plan is administered by the Washington State Department of Labor and Industries. The departments' primary focus is on protecting the safety and welfare of Washington's 3 million plus workers with on-the-job safety and health through inspections and enforcement programs through voluntary consultations and training. They also help protect consumers from unsound building practices, combat illegal employment practices, and help develop the State's skilled workforce through apprenticeship programs. In

years past the successes of our State programs has been jeopardized by the lack of funding from the Federal level to maintain current programs let alone to expand and implement new safety standards for new equipment and or technologies.

Does the Department of Labor (DOL) have any ideas on how the State and Federal level can worker closer together to further implement workplace safety standards?

Answer. OSHA and the States that operate approved State plans, including Washington State, maintain an ongoing partnership to ensure protection for all the Nation's workers. OSHA meets three times a year with the full membership of the Occupational Safety and Health State Plan Association (OSHSPA), which represents all 27 States operating State plans, and an additional three times a year with the OSHSPA Board of Directors. At these meetings, the attendees discuss Federal and State initiatives, and share information to enhance both Federal and State programs. OSHA's Regional Administrators and their staffs work with the State plans on a daily basis to coordinate efforts, provide technical assistance, and monitor their performance. State plan representatives serve on task forces with OSHA to address issues such as newly identified hazards and compliance initiatives. While States may focus their enforcement and outreach activities on State-specific industries and hazards, States also participate in OSHA National Emphasis Programs to address selected hazards on a nationwide basis.

OSHA is also working with the States to broaden their participation in more of these national programs in the interest of greater nationwide consistency. The State plans all participate in OSHA's management information system; information on State inspections is available on OSHA's Web site and in its database in exactly the same manner and detail as OSHA's Federal inspections.

Finally, in an effort to ensure that State plans are at least as effective as the Federal plan, we are currently conducting special reviews of all of the State plans, which will include recommendations on improvements they can make in their operations.

Question. Can I have a commitment from you that we will continue to keep State OSHA plans fully funded and functional so as not to increase the heavy burden of inspections and cases handled on the Federal level?

Answer. OSHA's State plan funding levels are set by Congress as part of the agency's annual appropriation, and OSHA will continue to distribute all available funds appropriated by Congress in accordance with the Act. No State plan is required by law to contribute more than a 50 percent match of the available Federal funds for the total costs to the State of their safety and health program. However, many States have chosen to contribute significant additional funding. Currently, 19 of the 27 approved State plans, including Washington, contribute additional State funds over and above the amount that OSHA allocates to them from amounts made available for State plans in the agency's annual appropriation. The other eight States provide the 50 percent share, the same as the Federal funds made available to them.

The fiscal year 2010 appropriation included an \$11.8 million increase for State plans, the first significant funding increase in many years. The funds were distributed to States in accordance with a funding formula that takes into account a State's worker population and the extent to which its industries are hazardous. The eight States which were unable to match all or part of the increase for this fiscal year will be given until fiscal year 2012 to obtain matching funds. The fiscal year 2011 budget requests \$105.9 million for State plan programs, an increase of \$1.5 million from the fiscal year 2010 level.

REGULATIONS

Question. On OSHA's rule on cranes and derricks—this rule to protect construction workers has been in the works for years and repeatedly delayed. The latest regulatory agenda says the final rule will be issued in July 2010.

Is this rule on track to be issued by this date?

Answer. Yes. The final rule for cranes and derricks has been submitted to the Office and Management and Budget in anticipation of a July 2010 publication date.

After a number of years of inaction under the last administration, we appreciate that OSHA is now moving forward to develop and issue needed regulations. There are many serious hazards that need to be addressed. I would like to ask you about a few specific rules and when we might expect movement.

Question. OSHA's rule on silica has also been repeatedly delayed. Will a proposed silica rule be issued in July as listed in the regulation agenda?

Answer. Newly appointed Assistant Secretary David Michaels is providing strong leadership and is committed to moving forward with the silica rulemaking. OSHA

recently completed a peer review of the health effects and risk assessment sections needed to develop the proposed rule. The agency is continuing to refine the scientific risk assessment and develop the robust economic analysis required to support a proposed rule; consequently, the proposal will not be issued in July as had been projected in last fall's regulatory agenda. Please be assured that the rulemaking for silica remains a high priority for the agency. OSHA is working to complete these analyses and the proposed rule is scheduled to be published in February 2011.

Question. In 2007, 14 workers were killed at the Imperial sugar refinery in Georgia when sugar dust caused a deadly explosion. The Chemical Safety Board recommended that OSHA needs a regulation to prevent these kinds of explosions in the future.

What are OSHA's plans for issuing a proposed rule and a final rule on combustible dust?

Answer. On October 19, 2009, OSHA published an Advanced Notice of Proposed Rulemaking (ANPR) for combustible dust. The comment period officially closed in January 2010. More than 110 comments have been submitted, which are currently under review by OSHA personnel. On December 14, 2009, OSHA hosted two stakeholder meetings in Washington, DC. Two additional meetings were held in Atlanta, Georgia, on February 17, 2010. Nearly 100 stakeholders have expressed their views to OSHA so far. Two more meetings are scheduled for Chicago on April 21, 2010.

OSHA's economists are analyzing the responses to the ANPR and reviewing other sources of information to help analyze the economic impacts of a proposed rule. A Small Business Regulatory Fairness Act Panel is being planned for the spring of 2011 to solicit input on the potential economic impacts on small businesses. OSHA is drafting a proposed rule as it continues to conduct research, solicit and analyze input from stakeholders, and review responses to the ANPR. OSHA anticipates that a proposed rule for combustible dust will be published in 2012.

MISCLASSIFICATION

Question. As you know, we've been advocating, and the subcommittee has been focused on the problem of employee misclassification as independent contractors for some time now. Those efforts have resulted in the President's active support new budget proposals and a new joint Labor-Treasury initiative to "strengthen and coordinate Federal and State efforts to enforce statutory prohibitions, identify, and deter misclassification of employees." The budget includes \$25 million to support four program components.

Misclassification not only deprives workers of numerous rights and benefits (e.g., overtime pay, the employer's share of Social Security and Medicare contributions, rights to a safe workplace, civil rights protections, etc.), but it also gives tax cheats an unfair advantage in competing for business over responsible employers who follow the law. And, at a time of significant budget deficits, it is a major source of revenue losses for the Federal and State governments.

I was excited to see that this administration is being proactive about the problem of misclassification abuses.

How soon will you be able to get this initiative up and running?

Answer. Should the Congress provide the requested funds, the different elements that are a part of the initiative will be implemented at various points over the next year. The DOL's budget request for fiscal year 2011 includes \$25 million for DOL, including \$12 million for increased enforcement of wage and overtime laws in cases where employees have been misclassified; these funds will allow us to hire more investigators and provide better training on how to determine who is an employee and who is an independent contractor. Even though these funds will not be available until fiscal year 2011, we are already planning how best to target enforcement to identify and remedy widespread misclassification and we are emphasizing this issue in our current, fiscal year 2010 enforcement strategy.

Question. The proposal indicates this is a "joint Treasury-Labor initiative" to detect and deter misclassification.

What exactly will be the Department of the Treasury's role in this joint effort?

Answer. DOL has established a working group, headed by the Wage and Hour Division (WHD) Deputy Administrator, which includes members from a number of DOL agencies, including OSHA and ETA. This working group is also working with the Vice President's Middle Class Task Force and the Department of the Treasury on a Government-wide effort to develop strategies to address misclassification.

The Department of the Treasury is seeking legislation to allow it to better define and clarify worker classification standards—which benefits workers and firms by reducing uncertainty—and to prospectively reclassify misclassified workers. The Presi-

dent's budget estimates that this would increase Treasury receipts by more than \$7 billion over 10 years, much of it consisting of unpaid taxes.

Question. I am glad to see that the portion of the initiative that will be implemented by the WHD is appropriately targeted to industries and employers that have been identified as having a record of significant misclassification violations.

Can you elaborate on other aspects of the initiative that are designed to maximize your investigative resources, for instance coordination with State efforts?

Answer. The DOL's working group is exploring ways for all DOL agencies to provide better guidance to both workers and employers and increase information sharing between DOL agencies. Over the next few months, the working group plans to bring in a diverse array of stakeholders, including unions, worker advocates, and employer groups, to get their input on misclassification and what steps we should take. We are also planning to meet with representatives from State misclassification task forces to learn from their experiences.

—I think it is especially important that you have proposed a pilot program of competitive grants to reward and help States that have stepped up efforts to detect and prosecute misclassification violations. These programs, usually undertaken by State Unemployment Insurance Administrators, are severely understaffed and underfunded.

Question. What does the DOL hope to achieve with the grants program?

Answer. An additional \$10,950,000 is requested for the ETA for two initiatives focused on increasing the capacity to address misclassification within the Federal/State administered Unemployment Insurance program. The first initiative provides states the opportunity to compete for grants to increase their capacity to participate in data sharing activities with the IRS and other Federal and State agencies; to implement targeted audit strategies; establish a cross-State agency task force to target egregious employer schemes to avoid taxation through misclassification, and to develop education and outreach programs. The second initiative would pilot a high-performance award program designed to encourage States to improve misclassification efforts. States that are most successful (or most improved) at detecting and prosecuting employers that fail to pay their fair share of taxes due to misclassification and other illegal tax schemes will be rewarded.

BUREAU OF LABOR STATISTICS (BLS)

Question. Madam Secretary, the President's budget for the BLS includes a new initiative designed to restructure the Current Employment Statistics (CES) Program. This CES initiative proposes reducing funding to the State labor market information (LMI) agencies by \$12 million (a 50+ percent reduction in BLS funding to the States for CES) while re-programming \$7 million to fund BLS staff to make improvements in data collection and survey response rates. As proposed, the net savings to the CES program would be \$5 million. BLS indicates that this change will have no net impact on data quality and variance at the national level. While this savings goal is laudable in this period of significant budget concerns, I have some concerns about the negative impact that this move could have on State LMI agencies in maintaining their capacity to generate, analyze, and disseminate data to State and local policymakers—especially when data is so critical to guiding people toward employment opportunities during this recovery.

BLS indicates that this proposal will improve data quality overall and provides evidence that the proposed change to the CES program would have little impact on national employment estimates. However, a number of State LMI agencies have expressed concern that this move will reduce BLS' ability to access local knowledge in making estimates (given the reduction in State staff). The State LMI agencies also contend that the change will increase the variance for employment estimates reported in about one-third of the States (according to BLS's technical explanation). This greater variance in State or regional estimates will be much more difficult to explain to State or local policymakers using the data. The LMI agencies are responsible for explaining State estimates from this program to budget and tax revenue forecasters, economic developers, workforce developers, and other policy makers that rely on the CES to inform their decisionmaking. As proposed, this change would substantially reduce the State knowledge base in supporting user questions about this important program since fewer staff will be familiar with how the estimates are being generated and the rationale behind some variance.

Furthermore, there is some concern that this "centralization" could have significant long-term implications for the Federal-State statistical system, first established during the Great Depression. Certainly, enormous advances in information technology have occurred since the program was put into place, providing opportunities for increased efficiencies and shifting responsibilities. This may be an appropriate

time to conduct a thoughtful, thorough review of the current state of the Federal-State cooperative effort, not just for the Current Employment Statistics program, but also for other BLS data programs such as Local Area Unemployment Statistics, Occupational Employment Statistics, the Quarterly Census of Employment and Wages, and Mass Layoffs Statistics. Such a review would provide the basis for implementing a more considered, effective approach to a 21st system cooperative system, one that takes full advantage of the complementary strengths of BLS and the LMI agencies.

Question. I'd like to ask DOL to provide a long-term vision for how the Federal-State statistical system is to be strengthened, improved and expanded. And I'd like to ask the department to consider undertaking a deliberative review of this Federal-State cooperative.

Answer. The DOL thanks the Senator for sharing her concerns about the BLS proposal to restructure the CES program. While the proposal does reduce the number of State-funded positions, it reduces the workload on States commensurately. Moreover, the proposal allows for States to retain about 100 positions for collecting and providing BLS with local knowledge for making estimates, and for conducting analysis and dissemination of the estimates to State and local users.

Regarding State concerns about the quality of the estimates, BLS research comparing State-made to BLS-made estimates indicates that about one-third of the former showed smaller errors (when benchmarked to the annual comprehensive employment count from the unemployment insurance system). However, BLS-made estimates were comparable in accuracy for one-third of States, and more accurate for another third of States. For this research, BLS made its estimates in a completely automated fashion with no analyst review or intervention in the estimation process. After the implementation of this proposal, estimation will be conducted by a staff of about 30 BLS analysts and the quality of BLS-made estimates for publication will be higher than the quality of the estimates generated for research purposes. In addition, the BLS-made estimates will reflect a consistent, objective, and transparent methodology across all States.

Upon implementation, this proposal will reinvest a portion of the savings from restructuring to improve survey response rates and accelerate the rate at which the sample of businesses is refreshed. Both of these enhancements will contribute to reducing statistical error in the national, State, and area estimates. BLS staff would welcome the opportunity to meet to address any other questions on the CES restructuring proposal.

The DOL continues to value Federal-State cooperation in the accomplishment of BLS statistical programs. Working through BLS, the DOL consults regularly with the State LMI agencies on strategies for strengthening and improving the statistical system. The fiscal year 2011 budget request for BLS includes approximately \$80 million in support of State operations on the five cooperative statistical programs. This amount also includes a request for additional resources for one of these programs—Occupational Employment Statistics (OES)—to improve the usefulness of OES data for identifying trends in occupational employment and wages. In particular, this initiative will improve the quality of OES data for State and local decisionmaking on investments in education and training programs. Lastly, the Department will take the suggestion to review the Federal-State cooperative programs into consideration.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

VOLUNTARY PROTECTION PROGRAMS

Question. Currently, there are more than 100 sites in the Voluntary Protection Programs (VPP) in and actively pursuing VPP status in the State of Louisiana. Collectively, these sites employ approximately 24,656 workers.

How will the proposed shift in the Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) resources from compliance assistance to enforcement impact these VPP sites in terms of their ability to either obtain or retain VPP their ability to participate in the VPP in 2011?

Answer. OSHA is not eliminating the VPP. However, OSHA is looking for other nongovernmental-funded ways to continue the program. Given the budgetary issues facing the Nation, the agency is making hard choices to use our limited resources where they are most needed.

As a result, OSHA is reducing Federal resources spent on companies that fully understand and exercise their responsibility to protect their workers' health and safety to invest resources in companies that are not doing a good job protecting their

employees. The agency recognizes the importance of the, VPP, and participating companies that have made a valuable contribution to workplace safety by going above and beyond OSHA's requirements and serving as models for others.

According to Government Accountability Office (GAO) report on the VPP published in May 2009, approximately 80 percent of VPP worksites have fewer than 500 employees.

Question. Has OSHA studied and concluded separately on the impact on small businesses of the fiscal year 2011 DOL budget proposal to shift OSHA resources from compliance assistance to enforcement? What are OSHA's plans to review the impact on small businesses that participate in the VPP of implementing a user fee system to fund VPP?

Answer. Currently, 99 of 1,644 Federal VPP sites—or 6 percent of the total—meet the small business definition (i.e., 250 or fewer employees and not part of a corporation/organization with 500 or more employees.) Only 30 percent of all workers are employed in establishments larger than 250 employees. In other words, 94 percent of VPP sites are part of large companies where only 30 percent of Americans work.

In addition, OSHA's fiscal year 2011 budget includes a \$1 million increase for the State Consultation Program, which provides free on-site consultative services for small businesses that request assistance in achieving voluntary employee protection. The Consultation Program is particularly useful to small businesses, and the additional funding requested in fiscal year 2011 will help meet the demand from small employers seeking assistance to come into compliance with OSHA requirements.

The May 2009 GAO report found merit in the VPP programs overall, but that OSHA had not developed goals or measures to assess the performance of the VPP, and the agency's efforts to evaluate the program's effectiveness had not been adequate. OSHA generally agreed with the GAO report's recommendations to develop procedures and measures to assess the performance of the VPP.

Question. What is the current status of implementing the recommendations from the GAO report for assessing the performance of the VPP?

Answer. OSHA is currently reassessing all aspects of the VPP due in part to the GAO report of May 2009. At the same time, OSHA is an active participant in the Department-wide 2010–2016 strategic planning process and is formulating new performance measures for all of its programs.

QUESTIONS SUBMITTED BY SENATOR JACK REED

Question. There are more than 16,000 public libraries in the United States, most of which provide job/career information and resources, such as access to computers so that patrons can search for jobs and file for government services such as unemployment benefits. In the economic downturn, libraries are a community resource increasingly in demand, especially by those who are unemployed.

How will the Department of Labor (DOL) work to better integrate libraries into our workforce system so that they receive the support they need to continue providing these services to the public?

Answer. DOL, Employment and Training Administration (ETA) has entered into a partnership with the Institute for Museum and Library Services (IMLS) in recognition of the critical role that both the public workforce system and the Nation's public libraries play in responding to jobseekers' needs. The goal of the partnership is to encourage libraries and the workforce system to collaborate at the State and local levels, resulting in increased employment and training services to job seekers that lead to good jobs, including career pathways and sustainable wages.

ETA and IMLS are engaged in a number of activities to support libraries in meeting the growing employment needs of their patrons. For example, ETA has already incorporated libraries and existing co-locations between libraries and One-Stop Career Centers into America's Service Locator (www.servicelocator.org), an online search tool for local service providers. This allows a library patron or job seeker to locate the nearest One-Stop Career Center and library within their community so that they can access the employment and training services they need. ETA is preparing to announce the ETA/IMLS partnership to the workforce system, including the announcement of successful collaborations between libraries and the public workforce system, and to encourage development of such partnerships at the State and local levels.

In addition, ETA has shared information about the employment and training resources available through the public workforce system with IMLS and its strategic partners. For example, ETA has begun to disseminate information about its national electronic tools, including CareerOneStop (www.careeronestop.org) and the occupational database O*NET (www.onlineonetcenter.org), that provide important ca-

reer information and resources to individual libraries and library systems. ETA also plans to conduct a webinar to orient and train librarians and other staff to the electronic tools, which are accessible to library patrons and other job seekers anytime at any physical location via the Internet. Lastly, ETA staff is using library newsletters and other dissemination channels to inform the library community about events and developments that are relevant to workforce development and this partnership.

In comparison to the more than 16,000 public libraries, there are roughly 1,800 federally funded “One-Stop” Career Centers under the Workforce Investment Act. There is some evidence that the unemployed are opting to use their local library for the services that the One-Stops are designed to provide due to location or other reasons. It has also been reported that some of these centers refer users to their local libraries for additional job search assistance. At the same time, there are some examples of libraries and local workforce development organizations working together to provide help to job seekers, such as in North Carolina.

Question. What are your thoughts on ways we can support and expand these collaborations to best serve job seekers?

Answer. Partnerships between the Nation’s public workforce system and the library system increases the access points by which job seekers can receive critical career information and job assistance. ETA plans to announce the existing partnership between ETA and the IMLS at the Federal level and encourage partnerships at the State and local levels. This will be followed by an ETA-sponsored webinar for the public workforce system this summer that showcases promising examples of collaboration. Examples of partnership activities to be highlighted include:

- co-locating One-Stop Career Centers and libraries;
- collaborating to train library staff about employment and training resources available through the public workforce system;
- using library space to provide services to library patrons, (e.g., familiarizing them with career resources offered through the public workforce system and available electronically) or to host career events (e.g., career fairs); and
- sharing workforce and labor market information, including data on high-growth industries and occupations, from the public workforce system to libraries.

Both ETA and IMLS are engaging their respective systems’ intergovernmental and other stakeholder organizations to identify examples of existing partnership activities that can be widely shared with leaders from the workforce and library systems. For example, during a National Governors Association event, ETA, IMLS, and workforce system and library leaders from the State of North Carolina discussed State level partnerships. In addition, ETA is also collaborating with the National Association of State Workforce Agencies and the National Association of Workforce Boards to identify promising collaborations at the State and local levels. Collaborative efforts will include the utilization of the Reemployment Works! Community of Practice—a virtual community for workforce professionals dedicated to exchanging promising practices, tools, and resources for connecting unemployed individuals with careers—to disseminate information and strategies about how partnerships between the public workforce and library systems can help jobseekers find new jobs and enter career pathways.

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

WORKFORCE INVESTMENT ACT (WIA) WORKFORCE INNOVATION FUND (WIF)

Question. WIA provides job training and related services to unemployed and underemployed individuals including programs for adults, youth, dislocated workers, and others. As part of the partnership for WIF with the Department of Education, the budget proposes to reserve 5 percent of the appropriation for adult and dislocated worker programs to form a new WIF and 15 percent of the appropriation for youth services to create a Youth Innovation Fund. Innovation funding would provide grants to test new practices of expanding and improving services and outcomes in the workforce development system and to replicate promising or proven workforce strategies, such as apprenticeships and on-the-job-training.

NOTE: According to the Bureau of Labor Statistics, the seasonally adjusted unemployment rate for youth (16–24) nationwide is 18.5 percent for February 2010. In Mississippi, the overall unemployment rate is 10.9 percent (no State data is available specifically for Mississippi youth)

Given the high levels of youth unemployment, why is the Employment and Training Administration (ETA) proposing a cut (fiscal year 2011 compared to fiscal year 2010) in State formula grants for youth activities?

Answer. In fiscal year 2011, the Department of Labor (DOL) is requesting \$1,025,000,000 to support WIA youth formula activities, an increase of \$100,931,000 more than the fiscal year 2010 level. The fiscal year 2011 target for participants is 306,998, which includes 266,274 Formula Grant participants and 40,724 Youth Innovation Fund participants. This is an increase of 24,572 participants more than the fiscal year 2010 target. Fifteen percent (\$153.75 million) of the request would be dedicated to testing and validating strategies for improving service delivery and outcomes for at-risk youth through the Youth Innovation Fund. The funds allotted to local workforce areas to provide services are not reduced; the 2011 request reduces the State reserve from 15 to 10 percent, so the share for local services is unaffected.

The Youth Innovation Fund will fund and rigorously evaluate innovative approaches to providing education and employment services to at-risk youth, particularly out-of-school youth. It will have two components: Summer and Year-Round Employment grants and Work Experience Plus grants. The Summer and Year-Round Employment grants will support paid work experiences for both in-school and out-of-school youth. The Work Experience Plus grants will allow local workforce investment boards, working in partnership with youth service providers, Governors and State workforce boards, to test innovative approaches for serving out-of-school youth in a comprehensive manner, combining work experience, education, and support services. Work Experience Plus programs will seek to help youth disconnected from education and from work move into postsecondary education leading to industry-based credentials, degrees, and employment. DOL expects that the Youth Innovation Fund ultimately will provide for more effective use of WIA formula funds through innovation and learning about what works for at-risk youth.

Question. Are the proposed innovation grants multi-year grants and would they require funding in subsequent years?

Answer. In fiscal year 2011, DOL envisions the Innovation Fund grants would be competitively awarded as multi-year grants. DOL believes multi-year grants are needed to allow adequate time to test and evaluate the innovative models and approaches that the Innovation Funds are designed to encourage. The Innovation Funds are proposed as a means of driving reform and continuous improvement, encouraging cooperation across programs and regions, and allowing the identification and replication of evidence-based approaches. DOL looks forward to working with Congress to support the Innovation Funds in WIA reauthorization and in subsequent years.

Question. If these proposed innovation grants are intended as multi-year grants, what are the proposed periods (e.g., 3 years, 5 years)?

Answer. DOL anticipates that the Innovation Fund grants will be multi-year grants, generally of up to 3 years. A multi-year approach offers grantees sufficient time to test their approaches, allow for flexibility where needed, and provide DOL with sufficient time to carry out a review or evaluation of the grant and other administrative responsibilities, such as grant close-out activities.

JOB CORPS

Question.

In prior years, DOL indicated that the appropriations for construction would be used to improve the condition of facilities at Job Corps centers. Specifically, DOL would place emphasis on the backlog of repairs on existing buildings and disposal of "surplus, nonmission-dependent properties."

What are the specific program efficiencies DOL is seeking to improve?

Answer. The Office of Job Corps expects to improve efficiencies in several areas. For example, we will use a multi-pronged approach to reduce increasing utility and fuel costs. The program is reducing its General Services Administration vehicle fleet, and replacing traditional vehicles with alternative energy-efficient electric vehicles for use on centers. Construction projects funded under the American Recovery and Reinvestment Act (ARRA) have included energy efficient upgrades that will reduce utilities costs at Job Corps center facilities. To complement these efforts, we have implemented a nationwide energy conservation campaign, funded by ARRA, which promotes the adoption of green practices by students and staff. Further, our new Job Corps centers are being built to Leadership in Energy and Environmental Design specifications and will be state-of-the-art, energy-efficient facilities.

Job Corps also is working to maximize centers' slot capacity utilization. The program anticipates an increase in students' average length of stay as a result of our rigorous career technical training system that includes industry-focused foundation courses for new students and the incorporation of industry-recognized certifications. Students must remain in the program longer to complete these program requirements. This increased retention will reduce costly student turnover.

Finally, Job Corps is exploring ways to decrease the cost of large scale on-center services, such as basic medical care and prescription drugs, without compromising the quality or provision of these services to students. The program also will evaluate its discretionary national office support contracts for possible reduction or conversion to Federal staff.

Question. How will DOL determine whether the benefits gained from transferring funds to operations will be greater than the benefits lost from less construction and renovation?

Answer. With the majority of shovel-ready projects already funded by the Recovery Act, the program anticipates no material loss to construction and renovation. In fact, over the coming months, Job Corps will be undergoing a large design phase to prepare construction projects for launch. Any decision to transfer funding would be preceded by a thorough review of the relative costs and benefits.

FOREIGN LABOR CERTIFICATION

Question. What specific steps is DOL taking to detect and deter fraud in the foreign labor certification process?

Answer. Within the ETA, the Office of Foreign Labor Certification (OFLC) undertakes a number of steps to both detect and deter fraud in the programs for which it has responsibility. These actions vary by visa program depending upon specific authorities, e.g. statutory and regulatory authorizations available to the OFLC. Many “triggers” or “flags” are built into application processing systems, both electronically and manually, in order to detect and prevent fraud from occurring.

Examples of specific actions include: (1) validating that the application OFLC receives was submitted by that employer and not someone fraudulently filing in their name; (2) verifying employer Federal Employer Identification Numbers; and (3) checking debarment tables, and other internal measures. In addition, OFLC extensively uses its audit authority and a request for information process when questions and/or concerns arise about an application, an employer, or its representative. Frequently applications are placed into audit when there are concerns about the availability of U.S. workers for the requested position, employer responses which trigger an audit, e.g., recruitment period not consistent with program requirements, etc. When and wherever appropriate, OFLC utilizes its debarment and revocation authority as additional means of insuring program integrity. OFLC also participates in the ongoing investigation and where necessary, prosecution of individuals involved in suspected instances of fraud. OFLC, along with DOL’s Wage and Hour Division, participates in Office of Inspector General investigations, provides expert testimony at grand jury trials, as well as contribute to other Federal agency investigations.

Question. Employers wishing to hire foreign workers often express frustration with the labor condition application (LCA) process and describe it as unresponsive to their need to hire people expeditiously.

What are the current backlogs, if any, by visa type, and what is the average “turn-around” time to process LCAs?

Answer. ETA’s OFLC administers four major foreign labor certification programs:

- Permanent Labor Certification Program (PERM or the Green Card)
- H-1B Specialty Occupations Program (LCAs)
- H-2A Temporary Agricultural Program
- H-2B Temporary Non-Agricultural Program

The table below displays the application process and current case processing times for each of these programs. The Immigration and Nationality Act specifically requires the Secretary of Labor, prior to granting a labor certification, to insure that the employment of the foreign worker will not adversely impact the wages and working conditions of similarly employed U.S. workers. The OFLC also must determine there are no available U.S. workers for the requested position. These statutory obligations mean that to provide America’s workers with opportunities to access jobs there is greater scrutiny of occupations and employers with pending applications in labor markets impacted by the layoffs.

In November 2009, ETA initiated an intensive effort designed to reduce PERM’s backlog of cases. Its goal for fiscal year 2010 is to reduce the backlog by 50 percent to approximately 35,000 cases. We are on schedule, and we will continue this effort as part of our larger DOL commitment to customer service.

TABLE 1A.—ETA OFLC VISA CASE PROCESSING REPORT, FISCAL YEAR 2010 (THROUGH MARCH 31, 2010)

Visa category	Total applications processed				Active workload		
	Totals	Certified	Denied	Withdrawn	Pending cases	Backlog	Average "turn around" time
PERM	40,299	35,051	3,809	1,439	48,306	Yes	11 months
H-1B	152,630	127,201	20,834	4,595	7,031	No	4–5 days
H-2B	3,199	2,738	461	.....	120	No	16 days
H-2A	3,415	2,961	76	78	334	No	22 days
Fiscal year 2010 grand total	199,243	167,951	25,180	6,112	55,791		

Source: Administrative records extracted from the ETA-OFLC Case Management Systems.

Question. The U.S. economy entered into a recession in December 2007. Although some economic indicators suggest that growth has resumed, unemployment remains high and is projected to remain so for some time. Since 2008, how many LCAs has DOL approved annually?

Answer. The following table displays case processing information for fiscal year 2008, fiscal year 2009, and 50 percent of the year for fiscal year 2010. With the exception of the H-1B Program (excluded by statute), all of the programs have required “testing” of the local labor market prior to the approval and granting of labor certification to insure domestic workers are fully considered for the job opportunity.

TABLE 1B.—ETA OFLC SUMMARY REPORT, FISCAL YEAR 2008–2010 (THROUGH MARCH 31, 2010)

Visa category	2008	2009	2010 ¹
PERM:			
Cases processed	61,997	38,247	40,299
Cases certified	49,205	29,502	35,051
Workers requested	(²)	(²)	(²)
Workers certified	(²)	(²)	(²)
H-1B:			
Cases processed	369,381	263,243	152,630
Cases certified	368,958	266,230	127,201
Workers requested	654,871	438,273	360,104
Workers certified	651,762	483,203	225,146
H-2B:			
Cases processed	11,177	7,090	3,199
Cases certified	10,257	5,871	2,738
Workers requested	292,645	218,274	79,091
Workers certified	250,343	154,489	61,192
H-2A:			
Cases processed	8,096	8,150	3,115
Cases certified	7,944	7,665	2,961
Workers requested	86,113	103,955	65,753
Workers certified	82,078	86,014	53,349

Source: Administrative records extracted from the ETA–OFLC Case Management Systems.

¹Includes cases processed from October 1, 2009 through March 31, 2010.

²Not applicable. A permanent “green card” application only contains one named beneficiary.

Question. For the PERM Program, the decrease in case certifications from fiscal year 2008 to fiscal year 2009 is attributable, in large measure to the following reasons:

- Inadequate number of Federal staff to perform final case adjudications.
- Increased integrity measures implemented, e.g., the number of cases placed in audit, supervised recruitment. The declining state of the economy especially U.S. worker availability in conjunction with employer layoff data prompted increased scrutiny of applications especially those filed by employers who were experiencing layoffs.
- The state of the economy did affect the nature and number of H-2B filings. Further, changes in the regulations implementing both the H-2A and H-2B influenced filing patterns.

Question. Would you please provide these statistics by occupation, trade group and visa category?

Answer. The table below entitled “Top 10 PERM Occupations, fiscal year 2008–2010” illustrates the top 10 occupations for which employers requested workers by type of visa for each of the 3 fiscal years (thru March 31, 2010). OFLC does not collect data by trade group, so that is not included. Because nearly all positions certified under the H-2A visa program involve the planting, cultivating, and harvesting of fruits and vegetables, more than 98 percent of workers are employed in the occupation of “Farmworker Laborer, Fruits and Vegetables.”

TABLE 1D.—ETA OFLC TOP 10 H-1B OCCUPATIONS, FISCAL YEAR 2008–2010 (THROUGH MARCH 31, 2010)

Top occupation	Applications processed	Applications certified	Workers requested	Workers certified
FISCAL YEAR 2008				
Computer systems analysis and programming	183,162	183,462	380,299	379,864

TABLE 1D.—ETA OFLC TOP 10 H-1B OCCUPATIONS, FISCAL YEAR 2008–2010 (THROUGH MARCH 31, 2010)—Continued

Top occupation	Applications processed	Applications certified	Workers requested	Workers certified
Architectural occupations	4,251	4,360	27,234	26,436
College and university occupations	23,159	23,192	24,843	24,810
Other computer related occupations	19,361	19,405	23,326	23,278
Accountant, auditors, and related occupations	14,515	14,550	23,063	22,990
Budget and management occupations	7,776	7,797	21,333	21,367
Electrical engineering occupations	13,531	13,583	16,979	16,853
Physicians and surgeons	9,359	9,400	13,693	13,598
Data communications and network occupations	4,741	4,756	12,630	12,613
Secondary school education occupations	4,007	4,028	9,286	9,167
FISCAL YEAR 2009				
Computer systems analysis and programming	107,858	108,349	233,742	238,039
Budget and management occupations	5,569	5,620	38,348	38,721
Other computer related occupations	12,470	12,551	18,617	18,510
Architectural occupations	2,140	2,172	17,316	16,301
College and university occupations	16,076	16,132	16,655	16,597
Accountant, auditors, and related occupations	10,542	10,667	16,482	16,357
Electrical engineering occupations	8,926	8,987	11,104	10,980
Physicians and surgeons	7,740	7,804	10,600	10,500
Miscellaneous managers and officials	5,403	5,451	6,932	6,884
Miscellaneous professional, technical, and managerial occupations	5,014	5,062	6,466	6,418
FISCAL YEAR 2010 ¹				
Computer software engineers, applications	14,396	12,675	75,773	20,547
Computer programmers	17,740	15,936	54,693	52,354
Software quality assurance engineers and testers	1,059	940	53,601	1,470
Computer systems analysts	16,451	14,835	45,599	43,275
Computer software engineers, systems software	7,216	6,629	10,180	9,445
Physicians and surgeons, all other	2,589	2,196	4,785	3,398
Financial analysts	3,813	3,097	4,572	3,791
Market research analysts	3,804	2,654	3,934	2,771
Management analysts	2,934	2,348	3,932	3,287
Physical therapists	2,241	1,924	3,808	3,352

Source: Administrative records extracted from the ETA–OFLC Case Management Systems.

¹ Includes cases processed from October 1, 2009 through March 31, 2010.

TABLE 1E.—ETA OFLC TOP 10 H-2B OCCUPATIONS, FISCAL YEAR 2008–2010 (THROUGH MARCH 31, 2010)

Top occupation	Applications processed	Applications certified	Workers requested	Workers certified
FISCAL YEAR 2008				
Landscape laborer	3,458	3,375	79,223	76,383
Housekeeping, cleaner	724	689	23,984	22,442
Construction worker I	610	572	16,591	14,618
Forest worker	121	114	12,983	12,416
Amusement park worker	152	150	7,322	7,262
Welder fitter	57	30	6,785	2,466
Housekeeper	203	192	6,537	5,829
Waiter/waitress	166	158	5,030	3,961
Dining room attendant	213	208	4,451	4,325
Tree planter	49	46	4,371	4,187
FISCAL YEAR 2009				
Landscape laborer	2,030	1,793	55,840	48,315
Forest worker	128	113	13,606	11,375
Welder fitter	78	1	11,916	30
Housekeeping, cleaner	325	277	10,381	8,256
Construction worker I	341	273	9,170	6,185

TABLE 1E.—ETA OFLC TOP 10 H-2B OCCUPATIONS, FISCAL YEAR 2008–2010 (THROUGH MARCH 31, 2010)—Continued

Top occupation	Applications processed	Applications certified	Workers requested	Workers certified
Housekeeper	279	240	9,097	6,392
Amusement park worker	132	129	7,571	6,783
Industrial commercial groundskeeper	224	208	5,363	4,840
Horse stable attendant	320	265	4,095	3,510
Welder, combination	30	.....	3,378	.....
FISCAL YEAR 2010 ¹				
Landscape laborer	1,041	986	25,337	22,184
Industrial commercial groundskeeper	207	189	5,624	4,598
Amusement park worker	108	104	4,928	4,754
Housekeeper	196	173	4,821	3,590
Housekeeping, cleaner	134	103	3,614	2,121
Construction worker I	111	87	3,417	2,056
Forest worker	54	37	3,313	1,725
Landscape specialist	49	48	1,511	1,332
Horse stable attendant	66	59	1,365	1,004
Waiter/waitress	69	64	1,125	1,027

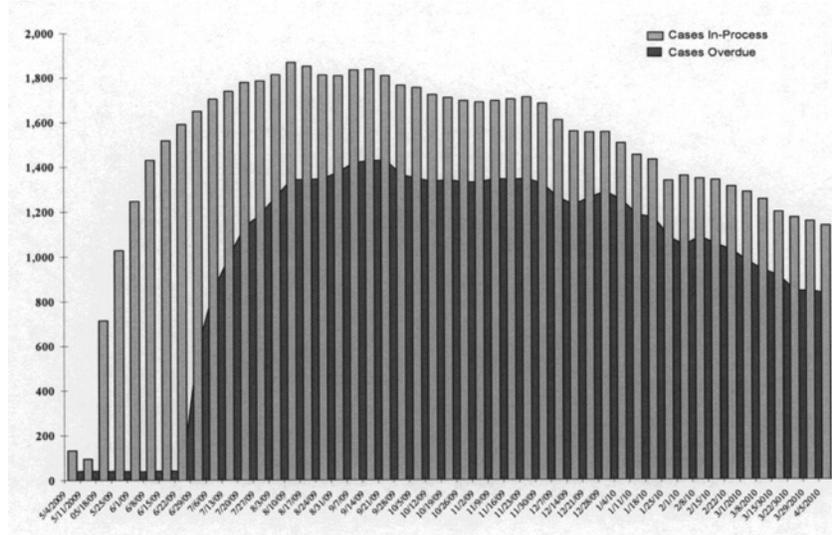
Source: Administrative records extracted from the ETA–OFLC Case Management Systems.

¹ Includes cases processed from October 1, 2009 through March 31, 2010.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

Question. What is the current backlog of determination decisions? How long does it currently take to reach determinations on trade adjustment assistance (TAA) petitions?

Answer. In the first 90 days under the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), TAA received more than 2,300 petitions for assistance. The initial petition filings created the backlog that TAA has systemically reduced on a weekly basis.



There are currently 835 cases that have been under investigation for more than 40 days; the average backlogged case is 133 days overdue. The time taken to reach a decision is steadily decreasing as DOL works through the remainder of the petition backlog.

Question. How did DOL prepare for the sharp increase in petitions? Has DOL hired additional investigators?

Answer. DOL began preparing for the anticipated increase in program petitions immediately after the President signed the ARRA containing the TGAAA. At that time, DOL had about 20 Federal staff and 14 contract staff working in the TAA program. Those staff included staff focused on petition investigations, program policy, funding, data collection and management, and office support.

The TGAAA significantly expanded the TAA program which resulted in an increase in petition filings of 104 percent from fiscal year 2008 to fiscal year 2009. While the ARRA reauthorized and expanded the program, it did not contain any funding specifically for the Federal administration of TAA. DOL used departmental management funds included in the ARRA to fund staffing and other TGAAA implementation costs.

Using these ARRA funds and other existing DOL resources, the DOL's ETA began a major hiring effort. As of March 2010, ETA had 28 permanent Federal staff and 20 ARRA-funded temporary Federal staff working on the TAA program. Of the 48 current program staff, 42 currently focus on petition investigations and the associated data management and notification process, while 6 focus on delivery of services, program policy, funding, correspondence and data collection, and management. Additionally, ETA has nine contract staff providing support to the TAA office.

Question. What are DOL's plans to reduce the backlog of petitions?

Answer. In addition to the intensive hiring effort undertaken by ETA, DOL has implemented an office realignment strategy to more effectively and efficiently address the TAA petition backlog. This strategy includes better TAA petition management; more equally balanced team and management structures; and incorporated a specialized team of investigators tasked with quickly resolving the most difficult cases. DOL also secured the assistance of a TAA investigation expert to help examine different and effective strategies within the current investigative process. Through this study, DOL identified areas to improve the petition investigation process and has implemented changes that are leading to more efficient case investigations. As a result, DOL has reduced the backlog by 37 percent since the beginning of January 2010. DOL continues to explore hiring options to ensure efficient staff planning and preparation for attrition of staff as a result of the expiration of ARRA-funded positions on September 30, 2010. As part of its planning for the loss of staff, DOL has requested an increase of 16 full-time equivalents for the TAA program in fiscal year 2011.

Question. How many petitions has DOL certified from firms that would not have been eligible for TAA benefits prior to the expansion of the program? How many workers have been certified in the period since the expansion compared to the same time period prior to the expansion?

Answer. Under the TGAAA, TAA has certified more than 2,300 petitions and certified an estimated 255,000 workers from May 18, 2009 to April 12, 2010. The same time-period in the previous year, TAA certified 1,561 petitions and 153,463 estimated workers.

TAA CERTIFICATIONS UNDER THE 2009 AMENDMENTS (MAY 18, 2009–APRIL 12, 2010)

	Number of certifications	Percentage of certifications	Estimated number of workers
PRIMARY CERTIFICATION			
Company imports of articles	185	7.94	24,017
Company imports of services	37	1.59	2,540
Customer imports of articles	315	13.53	40,363
Customer imports of services	22	.94	4,565
Imports of finished articles containing like or directly competitive components	7	.3	591
Imports of finished articles containing foreign components	3	.13	124
Imports of articles produced using worker services	4	.17	345
Increased aggregate imports	69	2.96	9,243
Shift in production	730	31.34	96,100
Acquisition of articles from a foreign country	89	3.82	7,674
Shift in services	357	15.33	17,515
Acquisition of services from a foreign country	106	4.55	6,916
Public agency .....	.....	.....	.....
ITC determination	20	.86	5,813

TAA CERTIFICATIONS UNDER THE 2009 AMENDMENTS (MAY 18, 2009–APRIL 12, 2010)—
Continued

	Number of certifications	Percentage of certifications	Estimated number of workers
SECONDARY CERTIFICATION			
Secondary component supplier	283	12.15	33,554
Secondary service supplier	74	3.18	3,098
Downstream producer	28	1.2	2,980
Totals	2,329	100	255,438

The certification rate under the TGAAA is about 82 percent compared to 70 percent prior to the TGAAA. While DOL cannot quantify the number of workers that would have been denied prior to the expansion, the increase in the certification rate is attributable to the expansions in the service sector in the TGAAA. Prior to the TGAAA workers who performed services could be certified, but only when associated with the production of an article; the TGAAA allows for stand-alone service sector certifications and includes other smaller expansions. In fiscal year 2008, workers not producing an article caused the greatest numbers of TAA denials.

Question. What is the administration's position on reauthorizing the TAA program when it expires on December 31, 2010?

Answer. The administration supports the reauthorization of the TAA program, including continuing the expansions to the program contained in the TGAAA, and included reauthorization in the 2011 President's budget.

OFFICE OF LABOR-MANAGEMENT STANDARDS (OLMS)

Question. OLMS administers and enforces provisions of the Labor-Management Reporting and Disclosure Act. This Act requires that labor unions, which represent private sector employees, file financial disclosure reports with OLMS and make those reports available to union members. The Act also established minimum standards for elections to choose union officers.

In fiscal year 2010, the administration requested, and Congress approved, an 8 percent reduction in the budget for OLMS. For fiscal year 2011, the administration requests a \$3.8 million increase but the majority is for computer modernization. The fiscal year 2011 request would keep the number of employees at 269—the same level as the current fiscal year. This is well below the 298 employed at the agency in fiscal year 2009.

How has the reduction in staffing since fiscal year 2009 affected the enforcement of union reporting requirements?

Answer. OLMS is fully funded and is well-positioned to maintain and improve upon its historically strong enforcement record. OLMS continues to improve targeting of audits and ensuring increased internal process efficiency in order to bring the best cases to protect union members' rights. In fact, OLMS' fiscal year 2009 enforcement numbers clearly demonstrate an increase in the number of criminal investigations, conviction levels, and delinquent report investigations, as compared to fiscal year 2008.

Enforcement activity	Fiscal year 2008	Fiscal year 2009
Election complaint investigations	130	129
Supervised re-run elections	35	32
Election complaints resolved (figure represents both agreements and lawsuits)	35	32
Criminal investigations	393	404
Indictments	131	122
Convictions	103	120
Compliance audits	798	754
Delinquent report investigations	2,019	2,596
Deficient investigations	799	749

Enforcement activity	Fiscal year 2008, first half	Fiscal year 2009, first half	Fiscal year 2010, first half
Election complaint investigations	50	60	72
Supervised re-run elections	16	19	10

Enforcement activity	Fiscal year 2008, first half	Fiscal year 2009, first half	Fiscal year 2010, first half
Election complaints resolved (figure represents both agreements and lawsuits)	10	15	17
Criminal investigations	181	184	154
Indictments	70	52	59
Convictions	53	55	56
Compliance audits	353	360	246
Delinquent report investigations	721	845	968
Deficient report investigations	375	343	255

At the midpoint of fiscal year 2008 and fiscal year 2009, delinquent and deficient report investigations were roughly comparable to the midyear fiscal year 2010 figure, shown above in the far right column. Specifically, as of March 31, 2009, OLMS recorded 845 delinquent report investigations and 343 deficient report investigations. As of March 31, 2008, the figures were 721 and 375, respectively.

Question. For the last fiscal year, how many unions have not filed their financial disclosure forms?

Answer. OLMS estimates that 25,378 Labor Organization Annual Financial Reports were due in fiscal year 2009. Not all unions use the same fiscal year beginning and ending dates; slightly less than two-thirds use a January 1–December 31 fiscal year. To conform to the different fiscal year beginning and ending dates with the Federal fiscal year dates, we here include unions whose fiscal year ended on or after 10/1/2008 but on or before 9/30/2009. Because the reports are not actually due until 90 days following the close of the union’s fiscal year, the 25,378 total reflects all unions who would owe OLMS a report sometime during fiscal year 2009. As of April 19, 2010, approximately 860 labor unions had not filed the fiscal year 2009 report.

Question. How will DOL ensure that OLMS remains independent now that the office reports directly to the Secretary?

Answer. Effective November 8, 2009, the umbrella organization known as the Employment Standards Administration (ESA) ceased to exist. DOL had decided to abolish ESA while maintaining the four component programs (the Wage and Hour Division, OLMS, the Office of Federal Contract Compliance Programs, and the Office of Workers’ Compensation Programs) as stand-alone organizations, reporting directly to the Secretary of Labor. This move greatly improved the visibility and access of the four agencies to the Secretary, facilitating improved communication and more efficient operations. OLMS, as the previous statistics clearly demonstrate, remains committed to a robust enforcement program.

BUDGET DEFICIT

Question. In fiscal year 2009, the Federal budget deficit was \$1.4 trillion. The administration is projecting a deficit of \$1.6 trillion for fiscal year 2010. The administration has requested a 3 percent increase in discretionary funding for DOL for fiscal year 2011 (up from \$13.5 billion to \$14 billion). While the administration proposes some program eliminations and program reductions, they do not offset the proposed increases in the budget.

What are the DOL’s long-term plans to slow or reduce the increase in discretionary spending?

Answer. DOL is working within the administration’s direction to freeze discretionary nonsecurity spending for 3 years. As such, we continue to examine how to focus limited resources on achieving results for DOL. We are currently developing a new strategic plan for DOL that implements my strategic vision of “Good Jobs for Everyone”. We have established outcome goals that support this vision and are currently developing performance goals. As we determine our resource needs, having these goals will help us develop responsible budget requests within the President’s direction. We are also looking at what programs are not working or do not clearly support my vision. Consistent with applicable law, resources will be shifted from these ineffective programs to those that are proven to work.

Ultimately, DOL’s plan is to invest in improving jobs for America’s workforce. As unemployment decreases, so does the administrative costs of the unemployment insurance program. As worker pay increases, so rises the resources to reduce our reliance on borrowing to balance the Federal budget. In short, our focus on “Good Jobs for Everyone” is an investment that will help reduce discretionary spending as well as speed the Nation’s economic recovery.

Question. What are DOL’s plans to improve the efficiency and effectiveness of programs administered by DOL?

Answer. DOL is requesting \$14 billion in discretionary funding for fiscal year 2011, a reduction of \$299 million (3 percent) below the fiscal year 2010 discretionary budget of \$14.3 billion. In fiscal year 2011, DOL will implement a new evaluation program that will rebuild DOL's evaluation capacity and support a rigorous evaluation agenda that measures the efficiency and effectiveness of programs and interventions and informs policy, management, and resource allocation decisions.

The new evaluation program will be headed by a Chief Evaluation Officer (CEO) who will be responsible for developing a comprehensive DOL evaluation program that ensures that research and evaluation are aligned with DOL's performance goals and strategic vision. The CEO will assist agencies in preparing their annual research and evaluation plans and provide technical assistance in project design and analysis.

In fiscal year 2010, resources are being allocated to evaluations that improve the effectiveness of Government through evidenced-based research. The highest priority has been given to impact evaluations, or evaluations aimed at determining the causal effects of programs.

In fiscal year 2011, DOL received \$40.3 million to fund five rigorous evaluations and demonstration of workplace safety enforcement and workforce development services. Many of these evaluations will employ random assignment methods and others will use the most rigorous empirical methods available.

In keeping with the President's vision of a transparent and accountable Government, DOL will publish all final reports from program evaluations in a timely manner.

QUESTION SUBMITTED BY SENATOR MITCH McCONNELL

Question. Given the high rate of unemployment within the veteran's population, what is the Department of Labor (DOL) doing to help ensure that these brave service members are able to find jobs when they return to civilian life?

Answer. The Veterans' Employment and Training Service (VETS) is playing a leadership role within the DOL to assist returning service members in their transition back to civilian life. To leverage the broader range of resources available across DOL, VETS is undertaking new initiatives in partnership with other Federal and DOL agencies. They include:

- Applying Priority of Service to Leverage Enhanced Resources.*—In partnership with the Employment and Training Administration (ETA), VETS is emphasizing that the recently published Final Rule on Priority of Service for veterans and eligible spouses is to be applied to the enhanced services delivered by ETA under the funding provided through the American Recovery and Reinvestment Act (ARRA).
- Initiating a Redesign of Transition Assistance Program (TAP) Employment Workshops.*—VETS, in partnership with the Department of Defense and the Department of Veterans Affairs, has exercised lead responsibility over the past 25 years for the employment workshops offered under TAP. VETS recently undertook an internal review of the employment workshop component of TAP and concluded that this set of services will benefit from an external review, with an eye to redesigning the curriculum. A contract for the external review and redesign is expected to be awarded during this fiscal year.
- Partnering With Job Corps for Younger Veterans.*—In partnership with the ETA's Office of Job Corps, VETS is taking new initiatives to offer younger veterans at risk of unemployment the opportunity for referral to Job Corps Centers. This initiative will take advantage of VETS' access to separating service members at TAP employment workshops.
- Stimulating Employment Opportunities for Veterans.*—VETS is undertaking a major outreach initiative to employers. The Assistant Secretary for Veterans' Employment and Training has convened an employer summit, established a relationship with the U.S. Chamber of Commerce, and has assigned VETS' field staff to conduct outreach activities with employers operating at the State and local levels.
- Improving Customer Service to Returning Veterans Facing Issues With Employers.*—To improve customer service to veterans who file complaints under the Uniformed Services Employment and Reemployment Rights Act (USERRA), VETS developed a Web-based tutorial for nationwide dissemination and streamlined some burdensome, paper-oriented aspects of this program. The tutorial is an interactive instruction with video clips to increase service member's and employer awareness with respect to service member's rights under the USERRA.

- Refocusing the Jobs for Veterans State Grants.*—With participation by ETA, VETS is emphasizing increased delivery of intensive services by Disabled Veterans' Outreach Program specialists and increased conduct of employer outreach and job development activities by Local Veterans' Employment Representative (LVER) staff.
- Capitalizing on New Work Opportunity Tax Credit Incentives.*—In the reauthorization of the Work Opportunity Tax Credit (WOTC) and in the recent authorization of ARRA, Congress enhanced the opportunities for veterans to benefit from the incentives available to employers under WOTC. In partnership with ETA, VETS is developing strategies to empower LVER staff to assist veterans in gaining pre-certification for WOTC.
- Enhancing and Expanding Outreach Through Electronic Media.*—VETS has re-engineered the Agency's Web site, has conducted a Web-based outreach session with key stakeholders and has applied social networking for enhanced outreach to veterans.
- Bridging the Gap With Rural Communities.*—VETS has taken steps to leverage existing rural outreach networks in an effort to overcome the geographic and cultural barriers separating veterans in remote locations from mainstream work opportunities.
- Strengthening Veteran Opportunities Among Federal Contractors.*—VETS is supporting the efforts of the Office of Federal Contract Compliance Programs to revise the regulations governing affirmative action by Federal contractors in the hiring of targeted veteran groups, so that the Federal contractors' responsibilities are more clearly specified.

SUBCOMMITTEE RECESS

Senator HARKIN. The subcommittee will stand recessed.

[Whereupon, at 9:52 a.m., Tuesday, March 23, the hearing was adjourned and the subcommittee was recessed, to reconvene subject to the call of the Chair.]